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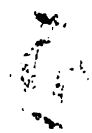
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JOHNS HOPKINS UNIVERSITY STUDIES
IN
HISTORICAL AND POLITICAL SCIENCE
(Edited by H. B. Adams, 1882-1901)

J. M. VINCENT
J. H. HOLLANDER W. W. WILLOUGHBY
Editors

VOLUME XXIV

DIPLOMATIC HISTORY.
TRADE UNIONS

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TABLE OF CONTENTS

	PAGE
I-II.—SPANISH-AMERICAN DIPLOMATIC RELATIONS PRECEDING THE WAR OF 1898. By H. E. Flack.....	1
III-IV.—THE FINANCES OF AMERICAN TRADE UNIONS. By A. M. Sakolski	97
V-VI.—EARLY DIPLOMATIC NEGOTIATIONS OF THE UNITED STATES WITH RUSSIA. By J. C. Hildt.....	249
VII-VIII.—STATE RIGHTS AND POLITICAL PARTIES IN NORTH CAROLINA, 1776-1861. By H. M. Wagstaff.....	445
IX-X.—NATIONAL LABOR FEDERATIONS IN THE UNITED STATES. By William Kirk.....	601
XI-XII.—MARYLAND DURING THE ENGLISH CIVIL WARS. Part I. By B. C. Steiner.....	751

**Spanish-American Diplomatic Relations
Preceding the War of 1898**

SERIES XXIV

Nos. 1-2

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J. M. VINCENT
J. H. HOLLANDER **W. W. WILLOUGHBY**
Editors

Spanish-American Diplomatic Relations
Preceding the War of 1898

BY
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Fellow in Political Science

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TO MR. L.
ALBION

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CONTENTS

CHAPTER	PAGE
I. BELLIGERENCY OR INSURGENCY?.....	9
Belligerency	10
Insurgency	15
II. INTERVENTION	32
The Destruction of the Maine.....	41
Self-Preservation	47
Commercial and Financial Interests	49
The Protection of the Lives and Property of American Citizens in Cuba.....	55
Humanity	59
The Spanish Treaty Claims Commission	69
III. SPAIN'S EFFORTS TO AVOID WAR WITH THE UNITED STATES.....	83

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• • • • •
• • • • •
• • • • •
• • • • •
• • • • •
• • • • •
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PREFACE.

This study is devoted to the consideration of the Diplomatic Relations between Spain and the United States prior to the war of 1898. The principal topics considered in it are the questions relating to the status of the Cubans during the insurrection, the causes or the alleged causes for intervention on the part of the United States, and the efforts of Spain to avoid war.

It may be proper to state that this study was begun as a report to be presented before the Political Science Seminary of the Johns Hopkins University. Its publication has seemed warranted from the fact that, though numerous articles have been published on different phases of the subject, there has appeared no adequate treatment of the topic as a whole. Furthermore, much new material has been made available since many of these articles were published.

The principal sources used in the preparation of this study have been the Foreign Relations of the United States for the years 1896 to 1898 inclusive; Affairs in Cuba, being House Document No. 405 of the 2d session of the 55th Congress, and containing the message of the President and the Report of the Senate Committee on Foreign Relations, relative to affairs in Cuba and our relations with Spain, as well as much correspondence and evidence as to the conditions in Cuba; The Spanish Red Book for 1898; a letter from the Spanish Treaty Claims Commission, being Senate Document No. 25 of the 2d session of the 58th Congress; The Treaty of Peace between the United States and Spain, being Senate Document No. 62, Part I, of the 3d session of the 58th Congress; The Congressional Record; and The Report of Mr. Calderon Carlisle, Legal Adviser to the Spanish Lega-

tion, this report being in two volumes. Of the secondary authorities consulted, Monsieur Le Fur's "La Guerre Hispaño-Américaine de 1898" is by far the most complete and satisfactory, though his book was written before the Foreign Relations of the United States for that period was published and is thus incomplete. References are given in footnotes to the other sources and authorities used.

It is the intention of the writer to continue this study to cover the questions of international law arising during the war, including the negotiations in regard to peace and the treaty of peace itself.

The author's thanks are due to Prof. W. W. Willoughby, at whose suggestion this study was begun, and whose counsel and assistance have been of much help in its preparation.

It is but proper to say, however, that the author is solely responsible for the conclusions he has drawn from the facts as he has found them.

H. E. F.

THE JOHNS HOPKINS UNIVERSITY,
FEBRUARY 15, 1906.

SPANISH-AMERICAN DIPLOMATIC RELATIONS PRECEDING THE WAR OF 1898.

CHAPTER I.

BELLIGERENCY OR INSURGENCY?

In order to determine, if possible, the exact status of the Cubans who were in arms against the mother country, as well as to determine the respective rights and duties of the Spanish and American governments before the war, it will be proper to give a brief résumé of the condition of affairs in Cuba prior to the war.

Cuba had been subject to periodic wars or insurrections for some time, *e. g.*, the Bolivar attempt in 1826, the "Black Eagle" insurrection of 1827-29, the disturbances of 1835 and 1844, an attempted revolution in 1854, the desperate struggle from 1868 to 1878, and then the insurrection or revolution of February, 1895.

As is always the case, a civil war works hardships and sufferings,—misery and want and often cruelty being the necessary attendants of internecine struggles even more than of ordinary wars. Cuba was no exception in this regard, but on the contrary, the accompanying evils of such wars were increased by the disposition of the combatants—each side resorting to retaliation, cruelty, etc. There can be no doubt but that as the war progressed, its accompanying evils were multiplied. Each combatant seemed determined to subdue the other, no matter what were the means employed to accomplish that end. Apparently the suffering entailed on others by their methods of warfare gave them little concern—being a secondary matter, the primary object being to overcome no matter what the cost. The reconcentration

orders of Gen. Weyler and the actual destruction of the crops by the insurgents aimed at the same object—the destruction of the food supply of the other.

To show the effect of this we only have to give a few facts. The sugar crop of 1894 was 1,050,000 tons; of 1896, only 200,000 tons, a decrease of 850,000 tons, or over 80 per cent. The tobacco crop of 1894 was 450,000 bales; of 1896, only 50,000 bales, a decrease of 400,000 bales or nearly 90 per cent. The exports in 1895 amounted to \$60,000,000; in 1896, to only \$15,000,000, a decrease of \$45,000,000, or 75 per cent.¹ Since sugar and tobacco were the principal crops of the island, such a diminution necessarily brought destitution. The sanitary conditions were very poor, and when the towns and cities were overcrowded by the reconcentrados, disease and want soon decimated the population. This state of affairs, together with the methods of warfare, brought protests from the United States. These protests were answered by counter protests from Spain as to the attitude of the government at Washington towards the insurgents.

BELLIGERENCY.

Before proceeding to the consideration of the specific question of the rights and obligations of the governments before war became a fact, it is necessary to consider this question of belligerency. The query naturally arises "Why did not the United States recognize the insurgents of Cuba as belligerents?" We say "naturally arises" from the fact that when we think of one nation interfering with another or taking sides with one of the combatants, we think, and naturally so it seems, that the war has reached a stage in which the outcome is doubtful, and that no nation would undertake interference unless there was some organized government to take the place of the one to be put aside. At first thought one is inclined to think that if a nation would not be justified in recognizing

¹ Annual Cyclopædia, 1896 and 1897.

a people as belligerents, then that nation should not interfere. It being a fact that the United States did interfere without even recognizing the Cuban insurgents as belligerents, we may well ask why she did not recognize them as such.

What are the circumstances which justify a neutral nation in recognizing insurgents as belligerents? Lawrence¹ says two conditions are necessary: 1. The war must have become a public war in the international sense; 2. The interests of the recognizing state must be affected by it. The first condition is satisfied when the revolted community occupies a definite territory, over which an organized government exercises control. The second condition is satisfied when there are so many points of contact with the recognizing state as to render it necessary to determine how it will treat the parties to the struggle. If the insurrection is confined to the interior of the country, it would be an unfriendly act for other states to recognize the belligerency of the insurgents, though quite otherwise if they were on the frontier or where it is a maritime struggle.

Mr. Hershey,² in an article in the *Annals of the American Academy of Political Science*, writing on the subject of the recognition of Cuban belligerency, says he recognizes the fact that the recognition of belligerency would give little, if any, material aid to the insurgents, though it would be of moral aid by giving them encouragement. He also admits that Cuba could not claim the right of recognition were she to file a much stronger brief at Washington than she could possibly do, since recognition is an act of pure grace on the part of the neutral government. Like Lawrence, he says two classes of facts determine recognition: 1. The existence of actual war in the international sense, *i. e.*, public war; 2. the policy or necessity for it on the part of the neutral state—one being a question of law, the other of policy. He quotes Hall (p. 28) as giving the true ground

¹ "Principles of International Law," pp. 303-304.

² Vol. VII, pp. 450-61.

of recognition as matter of policy, that it is "based upon a possibility that the interests of a state may be so affected as to make recognition a reasonable measure of self-protection." Hall⁴ states three cases in this connection: (1) The case of a struggle in the midst of a loyal and isolated province. In a case of this kind the question of recognition could hardly arise. (2) The case of a struggle in contiguous territory. Here recognition is a possibility, and at the option of the contiguous state. (3) The case of a maritime war. In this case the presumption is in favor of recognition. After citing the above cases and saying that Hall is about the best authority on the question of belligerency, Hershey admits that it would be rather difficult to consider Cuba in either of the above cases—and certainly not in the second or third cases.

Hershey thinks contiguity or non-contiguity not the essential part of the problem, but that the real ground should be the matter of commercial or property interests and the protection of our citizens. Dana⁵ is also quoted as saying that the question for a neutral state to ask is "whether its own rights and interests are so far affected as to require a definition of its own relation to the parties." Among the tests given by Dana as to whether insurgents should be recognized as belligerents, is the following: is there "a *de facto* political organization sufficient in character, population, and resources to constitute it, if left to itself, a state among the nations, reasonably capable of discharging the duties of a state?"

Hershey says that the favorite argument of the newspapers—"because the Spaniards are cruel, therefore we ought to recognize the belligerency of the Cubans"—is not based upon any principle of international law. He, however, claims that, under the circumstances, the recognition of Cuban belligerency would be the exercise of a strictly legal right, and that there would be no impropriety in

⁴ "International Law," pp. 29-30. (Ed. of 1880.)

⁵ Dana's Wheaton, pp. 34-39, note 15.

following the lines indicated by our own sympathy and interests—proximate and ultimate,—that is, to assist Cuba in the only possible way which is legally permissible, though he concedes that it would be an act of hostility towards Spain unless the struggle amounted to a war, since the recognition of belligerency is a recognition of a *de facto* state.

It is rather difficult to see how Mr. Hershey reaches the conclusion that the United States would be justified in recognizing the belligerency of the Cubans after citing the authorities he does and giving the conditions necessary for recognition, for we may say that he must have clearly seen—in fact he admits it as to the cases given by Hall—that the insurgents of Cuba hardly fulfilled any of the requirements of international law which justify a neutral state in recognizing belligerency, since they were not contiguous to any country, had no well established, responsible government, nor had ships or ports. He himself states the fact that the government was not as well organized as it was in 1868-78.

Since our government did not recognize the belligerency of the insurgents, let us see what reasons were given for not doing so.

President Cleveland,* in his message to Congress, December 7, 1896, sometime after Mr. Hershey had written his article, says: "The pretense that civil government exists on the island, except so far as Spain is able to maintain it, has been practically abandoned," and that "at the demand of the commander-in-chief of the insurgent army, the putative Cuban government has now given up all attempt to exercise its functions, leaving that government confessedly (what there is the best reason for supposing it always to have been in fact), a government merely on paper." He also says that belligerency had been urged by some, but no longer, because untimely, and that in practical operation it would be dangerous to our own interests.

* For. Rel., 1896, pp. XXIX-XXX.

Prior to this, in the spring of 1896, both Houses of Congress passed a resolution to the effect that the recognition of belligerency should be accorded the insurgents; but the President thought otherwise, and since the power was with him to concede or to withhold recognition, their belligerency was not recognized. Mr. John Bassett Moore, in discussing this question, said: "Belligerency, like independence, is a question of fact, in the determination of which neutral governments do not take into consideration the question of right between the contracting parties."¹ In this same article he also stated that, unless the facts justify recognition, the United States, in according it, would not be maintaining a "strict neutrality."

President McKinley, referring to the resolution of Congress in the spring of 1896, said it behooved the Executive to consider the question soberly, and that he had reached the conclusion that the insurrection did not "possess beyond dispute the attributes of statehood which alone can demand the recognition of belligerency in its favor."² He also quoted at length from President Grant's message of December 7, 1875, to sustain his position that belligerency should not be accorded to the insurgents, as the conditions were about the same then as now. The practical results of recognition, he said, would not help the Cubans, but would give Spain the right of search on the high seas, while the United States would have to exercise a strict neutrality and her people could not aid the Cubans as much then as now, since the act of recognition would warn all citizens not to violate neutrality, and, if they did so, it would be at their own peril and they could not expect to be shielded from the consequences. For these reasons he thought recognition unwise and inadmissible. In his message of April 11, 1898, McKinley referred to his message of December, 1897, and said that nothing had happened to change his views; that belligerency

¹ Forum (May, 1896), 21: 288.

² For. Rel., 1897, p. XV.

was not warranted by the facts in the case and that the recognition of independence was indefensible, as the requirement for that should be as positive at least as for belligerency, it being a greater act. When it should appear, he continued, that there was a government there capable of performing and discharging the duties of a separate nation, then it could be recognized.*

It will be seen then that the government of the United States did not consider that it would be justified in according belligerency to the Cubans, though it may be said that the fact that little, if any, aid would be given them thereby, while Spain would be able to exercise more power and that the United States would have to observe a stricter neutrality, went very far toward influencing the government in its action.

Having seen that the insurgents of Cuba could not be regarded as belligerents, and that our government did not so regard them, the question may be asked, "What was their status?" This leads us to the question of insurgency, which we will now discuss.

INSURGENCY.

What constitutes insurgency and what rights are to be accorded insurgents by neutral states? What are the rights of the parent state in the case, as well as the rights of neutrals? These are questions which must be determined in regard to the Cuban question, since the uprising there against Spain, the parent state, can be regarded as nothing more nor less than an insurrection. The so-called Republic of Cuba did not possess the attributes requisite for statehood, and so the supporters of it could not be called belligerents, nor could its independence be recognized by other states. However, the uprising was more than a strike, more than the mere violation of law, for a strong military force was necessary to meet them in the field, and, besides, the

* *Affairs in Cuba*, pp. 8-10. (Also *For. Rel.*, 1898.)

avowed aim and purpose of the supporters of the uprising were sufficient to entitle it to be called an insurrection and its adherents, insurgents.

The recognition of insurgency as a status midway between belligerency and the mere violation of, or resistance to, law by a body of men not pursuing a political end, is of comparatively modern origin, and the rights and duties flowing from it have not been definitely fixed. The parent state cannot require neutral states to treat insurgents as pirates and outlaws, for each state can determine for itself what attitude it will take, and this without any offence to the parent state, when resistance has become too powerful for the parent state easily to control it. If those in rebellion have not succeeded in organizing a government which entitles it to belligerency, the neutral states may simply show their attitude by an admission of insurgency.

According to Wilson, in a lecture at the Naval War College, the admission of insurgency implies:

1. That the uprising or insurrection has temporarily gone beyond the control of the state.
2. That the insurrectionary party is pursuing public, political ends by force.
3. That the conditions are such as to affect outside states.
4. That states so affected must have some relations with the insurgents in absence of control by the parent state."

Wilson continues: "The admission of insurgency by a foreign state is a domestic act which can give no offence to the parent state as might be the case in the recognition of belligerency."¹⁰ He also says that an outside state may use force, if necessary, to protect the person and property of its subjects in case of an insurrection, and that it may lawfully enter into relations with insurgent representatives in order to protect its interests. But "foreign states are bound to refrain from all acts implying assistance, moral or material, indirect or direct."¹¹

¹⁰ Lecture on Insurgency at Naval War College, 1900, p. 6.

¹¹ Ibid., p. 16.

¹² Ibid., pp. 13-16.

Having seen what were the general obligations in regard to an admission of insurgency, let us now see what obligations and duties the neutrality laws of the United States and the treaty with Spain of 1795 put upon our government.

The status of insurgency was practically accorded to the uprising in Cuba by the proclamation of President Cleveland, June 12, 1895. The admission of insurgency only puts into operation the domestic neutrality laws as well as treaties with the parent state.

Our neutrality laws were passed by Congress in 1818, and are now contained in Title LXVII of the Revised Statutes of the United States, sections 5281 to 5291 inclusive.

Section 5283 reads as follows:

"Every person who, within the limits of the United States, fits out and arms, or attempts to fit out and arm, or procures to be fitted out and armed, or knowingly is concerned in the furnishing, fitting out, or arming, of any vessel, with intent that such vessel shall be employed in the service of any foreign prince or state, or of any colony, district, or people, to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince or state, or any colony, district, or people, with whom the United States are at peace, or who issues or delivers a commission within the territory or jurisdiction of the United States, for any vessel, to the intent that she may be so employed, shall be deemed guilty of a high misdemeanor, and shall be fined not more than \$10,000, and imprisoned not more than three years. And every such vessel, her tackle, apparel, and furniture, together with all materials, arms, ammunition, and stores, which may have been procured for the building and equipment thereof, shall be forfeited; one-half to the use of the informer, and the other half to the use of the United States."

Section 5286 reads as follows:

"Every person who, within the territory or jurisdiction of the United States, begins, or sets on foot, or provides or

prepares the means for, any military expedition or enterprise, to be carried on from thence against the territory or dominions of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace, shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding \$3,000, and imprisoned not more than three years."

Section 5287 gives the President power to use the land and naval forces, or militia in order to enforce these provisions.

These were the only sections of our neutrality laws which could be applied to cases of aid given to the Cubans. Our power of preventing filibustering expeditions was derived from the sections given above. Were these two sections executed and enforced by our government? Spain claimed that they were not, while our government maintained that it did all that could be reasonably expected of a neutral nation and that her laws had been executed.

The question is one rather difficult to determine, but Mr. Calderon Carlisle, legal adviser to the Spanish Legation at Washington, has contributed much towards a better understanding of the question. His reports are in two volumes which contain the Statutes and Proclamations bearing upon the question of our neutrality laws and our obligations under them as well as the important cases which had arisen in regard to them up to June, 1897.

Spain, through her ministers, often called the attention of the government at Washington to the numerous filibustering expeditions which set out from the United States to aid the insurgents. The Spanish agents seem to have been more alert than the United States for evidences of such expeditions, or at least the numerous references to such expeditions about which the government at Washington seemed to know little or nothing, and which, when investigated, proved that the Spanish authorities were correct in their information and suspicions, would suggest it.

Numerous expeditions set out from the United States to aid the insurgents carrying men, arms, and ammunition. Our neutrality laws do not forbid purely commercial transactions, even when including arms and ammunition, and it was on this ground that the courts did not condemn the many vessels which were detained, even when it was a well known fact that they were destined for the insurgents. Until belligerency was recognized all such goods were mere articles of commerce and not contraband, and Spain could not exercise the right of visit and search on the high seas, though the United States ships could prevent them from leaving the waters under her jurisdiction. Mr. Carlisle maintained that shipments of arms, etc., to Cuban insurgents were not commercial transactions, and we cannot do better than quote him.

"It is impossible," said he, "to have any commercial communication with the insurgents in the field. The latter hold no port, and have never had permanent possession of any point upon the seacoast.

("To supply them with arms and munitions, it is absolutely necessary for the Cuban sympathizers in the United States 'to begin, set on foot, prepare and provide the means for a military expedition or enterprise.' They must become the owners of the arms and ammunition before they start, for there can be no commercial consignee in Cuba who can receive them for the insurgents. They must control the vessel which takes them, for its proceedings must be very different from those of a vessel engaged in the commercial and peaceful business of carrying cargo and passengers. The arms must be accompanied by men to land and carry them. These men must themselves be armed in order to safely reach the insurgent forces. In order that the vessel itself may effect a landing she must be provided with a pilot who knows the Cuban waters and the whereabouts and signals of the insurgents, and the vessel must be specially adapted for this war-like use by being provided with boats to effect the landing of the men and arms.

"Without most or all of these conditions not a single shipment of arms and munitions has been made from the United States or landed in the Island of Cuba."²⁸

Mr. Carlisle probably stated the question too strongly, especially as regards the judicial determination of the question, since the court only considers the facts as shown on their face. No doubt Mr. Carlisle's reasoning is all very true, but the court cannot always follow such a course.

From the numerous cases which were brought before the courts, as well as from those which were reported as being suspicious, but against which no action whatever was taken, one would be inclined to think that our courts were either too liberal in their interpretation of the law or that our laws were not sufficiently stringent.

We will state briefly the facts of a few cases and the action which was taken.

The "Commodore" became an object of suspicion at New London, Connecticut, in the fall of 1895, and when she went to Wilmington, N. C., a cargo of arms and ammunition was sent by express, the express charges being \$942. The arms were put on board at Wilmington and the ship cleared for Cartagena via Southport, N. C. The Captain of the vessel said he did not know what the articles to be shipped were, but that he intended to clear the cargo as mining implements and machinery. About the same time several strange men appeared at Wilmington, but doubtless learning of the proceedings against the ship, disappeared. The ship was detained; the cases marked "hardware" and "agricultural implements" were found to be arms and ammunition—among them being a rapid firing gun of the latest and most improved pattern. It was shown that this gun could be used from the deck of the vessel, and, besides, the ship was equipped with two boats capable of landing four or five tons each. The judge dismissed the libel, refusing to condemn the ship, while no appeal was taken by

²⁸ Report to De Lôme, I, p. 28.

the United States. It must be admitted that there was no direct evidence that the vessel was fitted out to commit hostilities against Cuba, and Mr. Carlisle thought this unnecessary, as the United States were at peace with the world. He also thought that the court should have taken judicial notice that the President had issued a proclamation as to the insurrection in Cuba, and that the nearness of the island to the destination of the cargo and the false representations of its character, etc., furnished convincing circumstantial proof.¹⁴

It may be stated that the "Commodore" made other expeditions—one in the spring of 1896. She landed successfully in Cuba a cargo of arms and ammunition, together with men forming a part of the expedition. Two members of the crew told of the landing, though the vessel claimed to have sprung a leak and to have thrown the cargo overboard. She made the trip without license, only having a coastwise license. The vessel was libelled for violation of the navigation laws, but the case was not brought to trial. The Cuban Junta sent one of the witnesses to Japan and the other to Australia, since they were not bound over. No action whatever was brought as to violation of section 5283 of our neutrality laws. The ship repeated the trip in June, 1896, and reported the same tale of leak. According to Mr. Carlisle, no inquiry was made as to the fate of the men, nor was any action ever instituted for violation of the section referred to above.¹⁵

At the time his first report was made, Mr. Carlisle says that there had been only one conviction of all the cases which had been tried—that being Wiborg, captain of the steamer "Horsa." He was found guilty of taking out a military expedition to Cuba, but no action was ever taken against the vessel itself, though the circumstances disclosed in the record of the case, of which Mr. Carlisle gives a complete copy in the first volume of his report, show that the "Horsa" was specially fitted out to commit hostilities

¹⁴ Ibid., I, p. 29.

¹⁵ Ibid., I, p. 34.

against Cuba, and that she did in fact commit hostilities by landing a hostile body of armed men on the island to make war against Spain.

The "Three Friends," the "Bermuda," the "Dauntless," and others were among the vessels which made expeditions. In many cases no proceedings whatever were instituted, while in several cases they were dismissed, in others acquitted, but only in three cases up to June, 1897, had the parties been found guilty, but in no case had the vessel been finally condemned.

There were 42 expeditions from June 4, 1895, to May 30, 1897; 21 of these were failures from one cause and another; 6 were partial failures; and 15 were successful. In only 11 cases had proceedings been instituted.*

The principal question to be decided in the case of the "Three Friends" was whether the recognition of belligerency was necessary in order that sec. 5283, or our neutrality laws, might be applied to vessels employed in the service of the Cuban insurgents. The Court held that such recognition was not necessary.

From the number of expeditions which reached Cuba or failed to reach there for other reasons or causes than prevention by the United States, one would think that the Spanish authorities were justified in protesting that our neutrality laws were not vigorously enforced. They also maintained that if they were enforced, then the laws should be more stringent, for the failure of a government to have laws sufficient for exercising that power was no excuse, as our government maintained against Great Britain as to the Alabama claims. If the laws were sufficient, then failure to enforce them would afford just ground for complaint.

In reply to a note from Mr. Woodford, United States Minister to Spain, Señor Gullon, Secretary of Foreign Affairs, said on October 23, 1897:

"On various occasions the governments of His Majesty

* Ibid., II, p. 21.

have found themselves obliged to call the attention of the Government of the United States to the manner in which the so-called laws of neutrality are fulfilled in the territory of the Union. Despite the express provisions of those laws and the doctrines maintained by the American government in the famous Alabama arbitration with regard to the diligence which should be used to avoid whatsoever aggressive act against a friendly nation, it is certain that filibustering expeditions have set forth, and unfortunately continue to set forth, from the United States, and that, in the sight of all men, there is operating in New York an insurrectionary junta which publicly boasts of organizing and maintaining armed hostility and constant provocation against the Spanish nation." " In the same note the Spanish Secretary points out that the most effective aid which the United States could render Spain toward securing peace would be to adopt the procedure followed by Van Buren in 1838, Tyler in 1841, Taylor in 1849, Fillmore in 1851, and Pierce in 1855, that is, by means of energetic proclamations, not only warning all who violate the laws of the United States of the punishment to be inflicted, but also notifying them that diplomatic protection of the government would not be afforded them, no matter into what grave situation their wrongful conduct might place them.

He also recalled the doctrine of the United States before the Geneva tribunal which was that "no nation may, under pretext of inadequate laws, fail in the fulfillment of its duties of sovereignty toward another sovereign," and that, if our government alleged that the powers of the executive were limited, then action similar to that taken in 1838 should be pursued. At that time a more stringent law was passed which remained in force two years.

The Spanish government considered the continuance of the Cuban Junta a violation of the comity of nations, if not of our neutrality laws and of the laws of nations. In fact

"For. Rel., 1898, p. 585.

it seemed to regard it as a breach of friendship on the part of the United States. No answer was made to the specific protest against the junta referred to in the letter of the Spanish minister.

Again, in a note to Mr. Woodford, February 1, 1898, the Spanish minister protested against the action of our government, saying that "the friendship which is founded upon international law obliges all states, to use the words of the famous South American publicist, Calvo, not only to prevent their own subjects from causing injury to a friendly country, but to exert themselves to prevent any plots, machinations, or combinations of any kind tending to disturb the security of those states with which they maintain relations of peace, friendship, and good harmony, from being planned in their territory."²⁸

Calvo, in his "*Droit International*," says: "International law not only obliges states to prevent their subjects from doing any injury to the dignity and interests of friendly nations and governments; it also imposes on them the strict duty of opposing within their territory any plots, machinations, or combinations whatever, of a character to trouble the security of countries with which they maintain relations of peace, friendship, and good harmony."²⁹

After speaking of certain publicists who maintain that a government is not responsible for the organization of hostile expeditions if her own citizens do not take part, the same writer continues:³⁰ "As to that which concerns political émigrés, on whom alone they would place the responsibility of the attempt which they undertake, they forget that they are doubly culpable: first, to their country, the government of which they meditate to overthrow or to trouble its internal tranquillity; secondly, to the country in which they are refugees, because they morally compromise it, violate its laws, and disregard the privileges of hospitality which

²⁸ For. Rel., 1898, pp. 661-662.

²⁹ Vol. I, sec. 380, p. 447. (Ed. of 1880.)

³⁰ Ibid., p. 447.

they receive. It is sufficient to say that the government which does not oppose the realization of such combinations renders itself an accomplice of the undertaking and cannot avoid the consequences of its culpable conduct." To be sure the United States never for a moment maintained that it was not responsible except where its citizens took part, but it seems clear that the Cuban Junta can be included under what Calvo would consider as plots, machinations, or combinations to do injury to a friendly nation, and it was, no doubt, in this sense that Spain protested against the failure of our government to take any action to suppress an organization which avowedly and publicly collected funds, etc., to aid the insurgents.

Señor Gullon also referred to Montesquieu as practically maintaining in his *Spirit of Laws*, Vol. I, p. 3, the same views as Calvo, and that Fiore, the Italian publicist, had the same thing in mind when he said: "Every state should refrain from ordering or authorizing, in its own territory, acts of any kind tending, directly or indirectly, to injure other states, even when it is not obliged to do so by laws or treaties." ^a (Fiore, Ch. II, sec. 598.)

Continuing, Señor Gullon says: "It is upon this view of international friendship that the Spanish government bases its opinion with regard to the extension of the obligations arising or derived from such friendship in the intercourse of civilized nations, and hence the request which it has addressed to the Washington Cabinet on numerous occasions, to prevent filibustering expeditions against Cuba, and to dissolve or prosecute the junta which is sitting publicly in New York, and which is the active and permanent center of attacks upon the Spanish nation, and which, from the territory of the Union, is organizing and maintaining hostilities against a country which is living in perfect peace with the United States."

He later mentions the fact that the junta is composed

^a For. Rel., 1898, p. 662.

principally of naturalized Americans, but born subjects of the Spanish government, and adds: "The principles upon which eternal law reposes, as much or more than law itself, demand the prompt suppression of that center of conspiracy, from which every oversight is watched and every legal subterfuge is made use of to violate the so-called neutrality laws of the Republic of North America, for friendly nations have seldom or never been seen to tolerate in their midst organizations whose chief object, or, rather, whose only mission consists in plotting against the integrity of the territory of another friendly nation."²²

At an earlier date, August 4, 1897, the Duke of Tetuán (Señor Gullon), in a note to the Spanish minister at Washington, De Lôme, in reply to Secretary Sherman's note of June 26, 1897, in which Sherman spoke of reconcentrados, uncivilized warfare, devastation, etc., said: "Moreover, we must bear in mind that this system of the total destruction of Cuban property has always been advocated by the filibustering junta at New York, composed, in great part, of naturalized North Americans, and that this junta has issued the most cruel orders; so that by coincidence, the authors of the admittedly abominable devastation which, according to the Secretary of State, has so greatly aroused the sympathies of the North American people, are citizens of the Union and organizations working without hindrance in its bosom."²³ Therefore, the Spanish Secretary of Foreign Affairs concludes, the most humane and reasonable course would be the suppression of the junta, without which, he asserts, the insurrection would long ago have ceased.

De Lôme, the Spanish Minister at Washington, in reply to Sherman's note, to which reference is made above, said, June 30, that if the American people would, "instead of aiding and abetting the violations of law which are constantly committed by the Cuban emigrants organized here

²² Ibid., p. 663.

²³ Spanish Red Book, 1898, p. 31.

for the purpose of making war upon a nation friendly to the United States," aid the Federal government in preventing filibustering expeditions, the evils of the desolating war would soon cease." In a letter to his home government, January 20, 1898, he stated that he had had an interview with Day in which he urged that the President should "make the filibustering junta understand that they must cease their operations here." *

Señor Polo, Spanish Minister to the United States, in a note to his home government, March 16, 1898, said that in a conversation with Mr. Day he mentioned the fact that if the United States would but disband the junta, it would all be quickly over, and that Mr. Day replied that this "was not possible under American law and in the present state of feeling." * This is the only answer that we have been able to find that the United States ever made to the protests of the Spanish government against the existence of the junta in New York. It does not appear that the United States maintained that it was in harmony with the principles of international law and good friendship to permit such a hostile organization to continue its operations, but that it was not contrary to American law and so could not be disbanded. If that was the only reason, then the Spanish contention that, if the laws were not sufficient, a more stringent law should be enacted was justified, for the United States had strongly maintained the doctrine before the Geneva tribunal that inefficiency of law is inexcusable. It may be said, however, that there is no specific treatment of subjects of this character by publicists unless Calvo's statement be applied.

However, Hall says: "*Prima facie* a state is of course responsible for all acts or omissions taking place within its territory by which another state or the subjects of the latter are injuriously affected." "If the acts done are undisguisedly open or of common notoriety, the state,

* Ibid., p. 28.

* Ibid., p. 67.

* Ibid., p. 92.

when they are of sufficient importance, is obviously responsible for not using proper means to repress them; if they are effectually concealed or if for sufficient reason the state has failed to repress them, it as obviously becomes responsible by way of complicity after the act, if its government does not inflict punishment to the extent of its legal powers."⁷⁷ There can be no question but that the junta was avowedly and openly operating in New York to aid the Cuban insurgents, and that the results of its operations were very injurious to the Spanish cause in Cuba, and so of sufficient importance to make our government responsible, according to Hall, though we are not at all sure that Hall intended to cover such cases as this, especially since the Spanish Government never referred to him in support of their protests.

In the reply of October 23, 1897, to Secretary Sherman's note of September 23, preceding, Señor Gullon says: "He who is not disposed to grant the means does not earnestly desire the end in view; and in this case the end, to wit, peace, will be attained by the United States exerting itself energetically to enforce with friendly zeal the letter and spirit of its neutrality laws."⁷⁸ He further said that if the support which the Cubans were receiving from the United States were cut off and if the Cubans were shown that the United States was truly the friend of Spain, then, their hopes of possible conflict between the two countries being annihilated, they would cease fighting. He recalled the fact that the "Silver Heels" had left New York in spite of the previous notification given by the Spanish Legation and before the eyes of the Federal authorities, and added that such things should not be repeated if the United States desired to prove her peaceful and friendly intentions. As to the "Silver Heels" it may be said that it was afterwards shown by our government that it was mainly due to the Spanish authorities in New York that the "Silver Heels" escaped, as

⁷⁷ "International Law," pp. 178 and 180.

⁷⁸ For. Rel., 1898, p. 586.

Spanish officers and detectives were given charge of the matter. Strictly speaking, however, this would hardly justify the Federal authorities in letting the ship escape.

Le Fur, a French writer on international law, speaking of the filibustering expeditions in his "*La Guerre Hispaño-Américaine*," says there were many expeditions due to the negligence or complicity of local authorities, and that they did not run any serious risk of being caught. He also says that the United States protested when any ships were seized by the Spanish or when men were tried by military authorities. He quotes Secretary Gage as making it known that out of 60 known expeditions, 33 had been apprehended by the United States, and that if the Spanish government had exercised the same vigilance they would have suffered little from such expeditions.²⁹ It seems that Secretary Gage was hardly justified in making that statement, as it was certainly more difficult to intercept the expeditions on the coast of Cuba than to prevent them from leaving the ports of the United States, since Spain could not stop them on the high seas and the ships could keep off the coast and not attempt to land when any Spanish vessel was in sight. Besides, it was the special duty of the United States by her neutrality laws and international obligations to prevent such expeditions. Our government never failed to assert that she was doing all within her power to prevent such expeditions, but when we remember that nearly half of the expeditions were never apprehended, it seems that we must conclude that there was laxity of duty somewhere, and that just as in the case of our government against England, Spain could, in certain instances, have justly demanded damages.

Hon. E. J. Phelps,³⁰ one-time minister to England, in an open letter to Ex-Gov. Levi P. Morton, March 28, 1898, says marshals arrive too late to prevent expeditions from sailing, and adds that one-twentieth part of the naval force that the government was trying to collect for what was called

²⁹ p. 9.

³⁰ N. Y. Herald, Mar. 29, 1898.

"the purposes of national defence" would have put an end to the only source from which the rebellion had been kept alive, and that the United States would be liable for damages.

It may be said for our government, however, that millions of dollars (according to McKinley's message—another estimate being \$2,000,000) were spent in trying to enforce our neutrality laws, and that it is recognized as an impossibility to prevent such expeditions entirely, though it cannot be denied that if the risk run had been made greater and had adequate punishment been meted out to them at first, such as confiscation of vessel, imprisonment of men, fines, etc., that fewer attempts would have been made.

In conclusion, it seems that it may safely be said that our government should have enforced our neutrality laws more energetically, thus preventing many of the filibustering expeditions, and that steps should have been taken to at least restrict or limit the activity of the Cuban Junta, if not to suppress it entirely.

Let us now consider what were the duties and obligations of Spain in the matter as well as her rights. As has already been noted, she did not have the right of visit and search on the high seas, since this could only be exercised in case of recognition of belligerency by the United States or by Spain herself; she could, however, exercise the right within the three-mile limit, though it was rather difficult for her to derive any benefit therefrom, since the filibustering expeditions would never attempt to land at a port, or to venture near any part of the coast when a Spanish vessel was in sight. Until belligerency is recognized, the parent state may be held responsible, generally speaking, for the acts of the insurgents as regards neutrals; that is, Spain would be responsible for damages for injury done Americans or their property by the insurgents.

By section VII of the treaty of 1795, Spain was bound to afford protection to Americans in her dominions, give them a fair judicial trial, etc. This question was often involved

during the war in Cuba, the United States protesting that her citizens, even when captured with arms in aid of the rebellion, should be tried before the civil, not the military, tribunals. The Spaniards captured the ship "Competitor" landing arms and men. Protests came from the United States that some of the men were American citizens and should be tried before a civil instead of a military tribunal. This was also true of men captured on land. While contending that she had the right to try them by a military tribunal, since they were not residing in Cuba and were also captured while attempting to aid the insurgents, yet Spain, in order to avoid giving any cause for irritation, yielded and gave them a civil trial, and in nearly every case released the men. This was especially true of the men taken with the "Competitor," all being pardoned by the Queen. It seems that Spain indeed acted very leniently in this regard. Many Cubans had come to the United States to take out naturalization papers in order to have the protection of the United States, and had then gone back to wage war against Spain. In nearly every case the men claiming the protection of our government were of this class. If the President had issued a proclamation, similar to that issued by Van Buren, warning all who were captured in arms against Spain or giving aid to the insurgents, that the diplomatic protection of our government would not be given, it is likely that fewer would have taken the risk.

CHAPTER II.

INTERVENTION.

The question of intervention may be considered the main topic of this study; at least it is the most important and interesting phase of the whole question of our relations with Spain. Before entering upon the discussion of the facts in the case, we have thought it well to give a digest of the views held by the publicists and writers on international law as to the right of intervention, in order that we may be the better able to understand the questions involved.

Lawrence, in his "Principles of International Law," says, "Independence may be defined as the right of a state to manage all its affairs, whether external or internal, without interference from other states, as long as it respects the corresponding right possessed by each fully sovereign member of the family of nations."¹ In another place he says: "It is easy to see that the right of a state to work out its own destiny in its own way would no longer exist, if international law gave to other states a general right of interference whenever they were horrified at cruelties committed in the course of a war or an internal struggle. All sorts of ambitious projects would be able to shelter themselves behind an alleged feeling of humanity. . . . But, as we have already discovered, interventions on the ground of humanity have, under very exceptional circumstances, a moral, though not a legal justification."²

Hall³ says that interventions to check illegal interventions of another state "are based upon the principle that a state is at liberty to oppose the commission of any act, which in the

¹ p. III.

² *Ibid.*, p. 132.

³ "International Law," p. 244.

eye of the law (*i. e.*, international law) is a wrong." In other words, any nation has the right to interfere to keep another nation from violating international law or to prevent unjust or illegal intervention by another power. In regard to interventions on the real or pretended grounds of humanity and religion, he says they "must be defended, in so far as they can be defended at all, upon the same principle, coupled with the assumption that international law forbids the conduct of rulers to their subjects, and of parties in a state toward each other, which such interventions are intended to repress."⁴ He would hardly grant, however, the assumption that international law takes cognizance of purely internal affairs. He thinks it unfortunate that publicists have not unanimously laid down the principle that interventions are never legal except for self-preservation, or when a breach of the law as between states has taken place, or when the whole body of civilized powers have authorized it.⁵ That is, that there must be a general recognition of the right of intervention in each particular case and that interventions to prevent cruelty, oppression, etc., should be illegal unless authorized by all the states, and that even in this case the power should not be exercised except in extreme cases and where the motives of the intervening states are purely unselfish.

Rivier⁶ says there are only two cases in which one state may interfere in the internal affairs of another: (1) When this right has been conferred upon it by a convention; that is, when all the states deem that interference is justifiable and designate what state or states shall intervene. (2) For the purpose of self-preservation. When the laws and security of the nation are put in jeopardy by the social or political conditions or conduct of another state, then the endangered state may interfere.

Rivier quotes from the circular letter or dispatch of Castle-

⁴ *Ibid.*, p. 245.

⁵ *Ibid.*, pp. 246-47.

⁶ "*Principes du Droit des Gens*," I, pp. 392-93.

reagh of January 19, 1821, in which the latter asserts that states can only intervene "where their own immediate security or essential interests are seriously endangered by the internal transactions of another state."⁷ This seems to be the view of Rivier also. According to his view, a single nation should not interfere with another nation because the latter is violating the laws or rights of humanity, for these laws may be violated without endangering the safety of another state. But when such violations endanger human society, and thus the society of nations, then the nations (states) may intervene for their own self-preservation.

Bonfils⁸ goes further than any as to the right of intervention when he says, "there is not, there cannot be any right of intervention; because there is not a right against a right. Right is the respective independence of the states; intervention is the violation of independence." He admits that intervention is a *political fact*, but not a *right*. He says Bluntschli at first condemns intervention, though admitting it in certain cases. Funck-Bentano and Sorel also think that intervention is not a right; in fact they hold almost the same opinion as Bonfils. Martens says it is always illegal. Bonfils says, "when they (the states) have judged it profitable to their policy, to their ambition, to interfere with the affairs of another state, they have claimed the right of intervention."⁹

Phillimore says reason and the practice of nations appear to sanction two general cases in which intervention is justifiable: "I. Sometimes, but rarely, in the domestic concerns and internal rights of self-government, incident, as we have seen, to every state. II. More frequently, and upon far surer grounds, with respect to the territorial acquisitions or foreign relations of other states, when such acquisitions or relations threaten the peace and safety of other states."¹⁰

⁷ Ibid., I, p. 398.

⁸ "Droit International Public," pp. 159-60.

⁹ Ibid., p. 160.

¹⁰ "International Law," I, p. 467.

Under I he gives the following as just grounds:

1. "Self-defence, when the Domestic Institutions of a state are inconsistent with the peace and safety of other states." He thinks the interference of the European powers in France during the French Revolution was justifiable for this reason, since she declared herself hostile to all monarchical forms of government and asserted her intention to aid other peoples in gaining their independence.

2. "The Rights and Duties of a Guarantee.

3. "The Invitation of the Belligerent Parties in a Civil War.

4. "The Protection of a Reversionary Right or Interest."¹¹

He also says that foreign powers may intervene "to stay the shedding of blood by a protracted and devastating civil war," and that this ground of intervention in behalf of the general interests of humanity has frequently been put forward, but seldom "without others of greater and more legitimate weight to support it. . . . As an accessory to others, this ground may be defensible; but as a substantive and solitary justification of Intervention in the affairs of another country, it can scarcely be admitted into the code of international law."¹²

Woolsey says that intervention can be justified only as an extreme measure and then on two grounds only: (1) "That it is demanded by self-preservation; (2) That some extraordinary state of things is brought about by the crime of a government against its subjects."¹³

Wheaton¹⁴ recognizes interference for the sake of repose and commercial interests as a principle of international law, and gives the intervention of the Christian powers of Europe in favor of the Greeks (1827) as an example.

We may conclude then that it is generally recognized by the authorities on international law that a state may inter-

¹¹ *Ibid.*, I, pp. 467-68.

¹² *Ibid.*, I, p. 475.

¹³ "International Law," p. 57, sec. 42.

¹⁴ *Elements of International Law*, Part II, sec. 69.

vene when self-preservation demands it; that is, that such intervention is always legitimate and justifiable. There is only one other case in which there is any approach towards unanimity among the authorities, and that is, that when all the nations sanction it, intervention may be justifiable. With these exceptions, the authorities are generally agreed that intervention is unjustifiable, at any rate illegal. Some of them do not think that intervention on any ground is legal, while a few think that intervention may be justifiable for other than the two reasons given above. We may say, however, that only in extreme, extraordinary, and exceptional cases can intervention be at all justifiable, and only in the two cases cited above—self-preservation and where sanctioned by all the states. Of course this is from a legal point of view, only few recognizing moral principles, *i. e.*, they do not think that one state of itself should judge as to whether another state is committing immoral, inhuman acts.

Viewed according to the above principles as laid down by international law writers, let us scrutinize the reasons given by the United States, that is, by Congress and the President, for intervention in the affairs of Spain in Cuba, in order to see whether those reasons are compatible with the principles above stated; in other words, to see whether the reasons given by Congress and the President justified intervention according to international law principles. If so, then we must compare those reasons with the actual state of affairs in Cuba and the relations with Spain to see whether the claims or contentions put forward by our government had any just basis or not. If there was no such just basis, then intervention was illegal and unjustified. We may furthermore say that if the objects to be obtained by intervention, that is, the purposes for which the United States intervened, could have been obtained by other means, *e. g.*, by arbitration, diplomacy, or moral pressure, then the action of our government was hasty, to say the least, and to that extent unwarranted.

President McKinley, in his message to Congress, April

11, 1898, gave the following as just grounds for intervention:

"First. In the cause of humanity and to put an end to the barbarities, bloodshed, starvation, and horrible miseries now existing there, and which the parties to the conflict are either unable or unwilling to stop or mitigate. It is no answer to say this is all in another country, belonging to another nation, and is, therefore, none of our business. It is specially our duty, for it is right at our door.

"Second. We owe it to our citizens in Cuba to afford them that protection and indemnity for life and property which no government there can or will afford, and to that end to terminate the conditions that deprive them of legal protection.

"Third. The right to intervene may be justified by the very serious injury to the commerce, trade, and business of our people, and by the wanton destruction of property and devastation of the island.

"Fourth, and which is of the utmost importance. The present condition of affairs in Cuba is a constant menace to our peace, and entails upon the government an enormous expense. With such a conflict waged for years in an island so near us and with which our people have such trade and business relations; when the lives and liberty of our citizens are in constant danger and their property destroyed and themselves ruined; where our trading vessels are liable to seizure and are seized at our very door by warships of a foreign nation, the expeditions of filibustering that we are powerless to prevent altogether, and the irritating questions and entanglements thus arising—all these and others that I need not mention, with the resulting strained relations, are a constant menace to our peace, and compel us to keep on a semi-war footing with a nation with which we are at peace."¹⁸

He also stated that the condition of things in Cuba was

¹⁸ For. Rel., 1898, p. 757.

strikingly illustrated by the destruction of the battleship *Maine*.

The above reasons, however, were not the ones given by the Senate Committee on Foreign Relations, though in part they agree, the Committee practically endorsing what the President had said. Mr. Davis, for the Committee, made the affair of the *Maine* figure rather prominently in the question of intervention. In fact, it seems to have been the most important factor, considering the amount of space given to it, and though not specifically declared to be the cause for favoring intervention, one cannot read the report of the Committee and the debates in Congress without feeling that it exercised greater influence than any other question. The report says: "It is the opinion of your Committee, having considered the testimony submitted to the board of inquiry, in connection with further testimony taken by the Committee and with the relevant and established facts presented by the events of the last three years, that the destruction of the *Maine* was compassed either by the official act of the Spanish authorities or was made possible by a negligence on their part so willing and gross as to be equivalent in culpability to positive criminal action."²⁸

Again, the Committee says in another connection: "Upon due consideration of all of the relevant facts of the relations of this government with Spain, including the destruction of the *Maine*, and of the history of the rebellion, it is the opinion of your Committee that the United States ought at once to recognize the independence of the people of Cuba, and also ought to intervene to the end that the war and its unexampled atrocities shall cease," etc.²⁹ The report even goes so far as to say: "³⁰ We cannot consent upon any condition that the depopulated portions of Cuba shall be recolonized by Spain any more than she should be allowed to found a new colony in any other part of this hemisphere or island

²⁸ Affairs in Cuba, p. V of Sen. Rept. No. 885.

²⁹ Ibid., p. VII.

³⁰ Ibid., p. X.

thereof. Either act is regarded by the United States as dangerous to our peace and safety."

The Committee later gives the following reasons for intervention: "The present situation in Cuba has become a menace to the peace of the world, and especially to the peace and safety of the United States. Spain has bid for European intervention, thus far apparently without success, but the conditions which make such intervention possible should be removed at once."¹⁹ In another place the barbarity of the Spaniards is also given as justifiable cause.

The Report seems to admit that the publicists do not recognize the right of intervention on humanitarian grounds, for it quotes from Arntz, who justifies intervention on those grounds, but it admits that he is an extremist. It also refers to Vattel, Wheaton, Bluntschli, and Mamiani, as saying it is right to succor an oppressed race, but not sanctioning any of the analogous grounds of intervention. It cites Heffter as saying that a state might assist either side after civil war has broken out, though denying the right of intervention. Calvo and Fiore think that states can intervene to put an end to slaughter."²⁰

The Committee, after referring to the above authorities, says: "If these opinions state the correct rule, as we believe they do, the right of intervention by the United States in the present instance is indubitable."²¹

The Committee must have recognized the weakness of such a conclusion, for, after trying to find sufficient justification in international law for intervention, it refers to other interventions, saying: "To sustain repeated interventions during the present century no law has been invoked. They have been acts of necessity and policy."²² It also refers to the policies of the "balance of power" and the "Monroe Doctrine," and one is led to conclude that the intimation or inference to be drawn is that intervention here is one of policy.

¹⁹ Ibid., p. XX.

²⁰ Ibid., pp. XIII and XIV.

²¹ Ibid., p. XIV.

²² Ibid., p. XV.

The following resolution was reported by the Committee and its adoption urged upon the Senate:

"Whereas, The abhorrent conditions which have existed for more than three years in the island of Cuba, so near our own borders, have shocked the moral sense of the people of the United States, have been a disgrace to Christian civilization, culminating, as they have, in the destruction of a United States battleship, with 266 of its officers and crew, while on a friendly visit in the harbor of Havana, and cannot longer be endured, as has been set forth by the President of the United States in his message to Congress of April 11, 1898, upon which the action of Congress was invoked; therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, First. That the people of the Island of Cuba are, and of right ought to be, free and independent.

Second. That it is the duty of the United States to demand, and the government of the United States does hereby demand, that the government of Spain at once relinquish its authority and government in the Island of Cuba and withdraw its land and naval forces from Cuba and Cuban waters.

Third. That the President of the United States be, and he hereby is, directed and empowered to use the entire land and naval forces of the United States, and to call into the actual service of the United States the militia of the several States, to such extent as may be necessary to carry these resolutions into effect."²²

Mr. Mills²³ of Texas, a member of the Committee, submitted his views to accompany the report (Sen. R. 149). Among other things he claimed that the right of self-preservation gave us the moral right to possess the island if we thought proper, or to control its possession by others.

We may then sum up the reasons given by the President and Congress for intervention as follows:

²² Ibid., p. XXII.

²³ Ibid., p. XXV.

1. On account of the *Maine* disaster (very important in Congress).
2. Because the continuance of the struggle was a menace to the peace and safety of the United States—the so-called right of self-preservation.
3. On account of the commercial and financial interests involved.
4. In order to protect the lives and property of American citizens in the island.
5. For the sake of humanity—to stop bloodshed and suffering.

The next question to be considered is, which, if any, of the above reasons are sanctioned by the best authorities on international law or by the practice of nations? On the face of it, only one, the second reason or cause, the right of self-preservation, is sanctioned by the best authorities as justifying intervention; that is, where one nation of itself interferes. We shall, however, include in this paper the inquiry as to whether the facts in the case were sufficient to warrant intervention on either of the above alleged grounds as given by the United States.

THE DESTRUCTION OF THE MAINE.

Having seen that the destruction of the *Maine* played such an important rôle, especially in Congress, let us now consider the facts in the case and see to what extent, if any, Spain was to blame, and to what extent there was cause for interference on the part of the United States.

The *Maine* was sent to Havana January 25, 1898, on a so-called friendly visit. Mr. Day^{*} had wired Gen. Lee the day before, saying: "It is the purpose of this government to resume friendly naval visits at Cuban ports. In that view the *Maine* will call at the port of Havana in a day or two. Please arrange for a friendly interchange of calls with authorities." Lee advised that the visit be postponed six or

^{*} *Affairs in Cuba*, p. 84.

seven days to give opportunity for the excitement on account of the riot and demonstration against autonomists to disappear. In an interview with the Spanish authorities, Lee said they profess to think that the United States has ulterior motives in sending the ship. They also think, he continues, that it will obstruct autonomy, cause a demonstration, etc. They ask that the visit be postponed until they can hear from Madrid, as delay will be unimportant if the visit is purely a friendly one.*

The ship reached Havana the same day that Lee wired Day about the interview with the Spanish officials (January 25). On February 4, Secretary Day wired Lee that the Secretary of the Navy thought the vessel should not remain long for sanitary reasons. He also asked if a vessel should be kept there. Lee replied the same day that there would be no sanitary danger until April or May, and that ship or ships should be kept there all the time now. "We should not relinquish position of peaceful control of situation, or conditions would be worse than if vessel had never been sent. . . . First-class battleship should replace present one if released, as object-lesson and to counteract Spanish opinion of our navy."† The *Maine* was blown up and destroyed eleven days later, on the night of February 15, 1898. Lee said the Spanish rendered every assistance possible and expressed the deepest sorrow on account of the disaster. He wired that cause was unknown, and that the Spanish government would like to unite with the United States in having the bottom of the ship and harbor jointly examined. The United States refused this, but said that every facility would be afforded the Spanish in making investigation—each acting independently—and this was the method pursued.

The questions to be determined were: What was the cause of the destruction of the *Maine* and where was the responsibility to be placed? If the explosion was from the inside, then no question of responsibility could be laid at

* Ibid., p. 85.

† Ibid., p. 86.

Spain's door, but if from the outside, the question to determine was, to what extent was Spain responsible? These were difficult questions to determine, especially to determine them fairly and justly, since they were to be decided by the interested parties acting independently of each other.

The board of inquiry appointed by the United States to investigate the matter reached the conclusion that the explosion was from the outside, but did not undertake to say who was responsible for it, in fact did not consider the question of responsibility at all. The Spanish commission or board reached the conclusion that the explosion was from the interior.

Granting that the explosion was from the exterior, was the Spanish government responsible? Mr. MacFarland, writing in the Albany Law Journal for April, 1898, says that nations are regarded as having given each other a standing invitation to visit their ports with ships of war in times of peace, and that there is a promise of implied hospitality and security. The greater the danger, the more vigilance should be taken to protect them, or, as Wheaton in his Digest says, "not perfect vigilance, but such as is reasonable under the circumstances."² He (MacFarland) contended that Spain must prove a case of non-liability, and that arbitration was out of the question until Spain made a *prima facie* case of non-liability.

His argument seems to be rather extreme, for in a certain sense nations are regarded as individuals in their relations with each other, and in this sense might it not be demanded of the United States to prove that Spain was responsible for the disaster. At least, it cannot be expected that Spain should prove non-liability while the other interested party sits as judge and jury combined to decide whether the proof or evidence is sufficient.

If there is to be arbitration on any question, it would seem that questions of the character of the *Maine* should be con-

² Digest, sec. 402.

sidered by impartial tribunals when the powers concerned cannot reach a satisfactory agreement. This is just what Spain proposed, but at no time did our government intimate that it was willing to submit the question to other than men of her own selection.

On March 23, 1898, Mr. Woodford, United States Minister to Spain, informed the Spanish government that the report of the *Maine* commission was in the President's hands, but that he was not authorized to disclose its character or conclusions. He added, however, that he was authorized to say that, unless a satisfactory agreement was reached in a few days which would assure immediate and honorable peace, the President would submit the whole question of our relations with Spain, including the *Maine*, to the decision of Congress.* This note cannot be regarded in any other light than that of a threat, for Spain was aware of what view Congress would take of the *Maine* affair. By this note, our government showed that it was willing to submit such a delicate question as that of the *Maine* to the decision of a popular, patriotic body of men whose verdict could be known in advance. To a certain extent it was a threat, as it were, held over Spain to induce or force her to yield to our demands.

Spain realized the danger of having the question submitted to Congress, and so on the following day, March 24, her Minister of State sent identical notes to all her foreign representatives, informing them of the intended or threatened action of the President and at the same time outlining the course which would be pursued by the Spanish government.** This course was carried out the next day, March 25, in a note to Mr. Woodford. In this note, the Spanish Minister called attention to the fact that the American government had refused to examine the *Maine* jointly with Spain, and that it was inadmissible and unjustifiable to submit the report of the board of inquiry to a political assembly,

* Spanish Red Book, 1898, p. 95.

** Ibid., p. 95.

especially without knowing the report of the Spanish board. To place the report before such an assembly without correction, explanation, or counter proof of any kind, revealed, he said, the intention of allowing national enthusiasm to form an *a priori* judgment, not based on facts or proof, and to reject, without knowing the terms, any statements which might give rise to doubt or seem distasteful. There can be no question but that this was a true and valid criticism, especially when taken in connection with the following quotation from the same note: "The most elementary sense of justice makes it in such a case a duty to previously examine and discuss in an atmosphere of absolute calmness the two different inquiries tending to one common end. Only in the supposition of an irreconcilable discrepancy or complete opposition between the one and the other would it be proper to submit them, as equity demands, to evidence less prone to prejudice and, if necessary, to fresh investigations and different judges."²² By thus showing her willingness to submit the question to others, in case they could not agree, Spain assumed an irreproachable position—a position much higher than that taken by the United States. Spain renewed the offer again on March 31, saying she was willing "to submit to an arbitration the differences which may arise in this matter." Again on April 10, Señor Polo de Bernabé, in a note to Secretary Sherman, said his government was willing to submit the *Maine* to the judgment of impartial and disinterested experts, accepting in advance their decision.²³ McKinley, in his message of the next day, mentions this fact, but says he had made no reply to the Spanish proposal. And why? The internal evidence and the later facts seem to give only one answer, and that is, that our government had practically decided on war and that the *Maine* question was considered the best thing to arouse popular enthusiasm. This will explain why our government, which has generally seemed so favorable to arbitration, was

²² *Ibid.*, pp. 96-97.

²³ *For. Rel.*, 1898, p. 749.

unwilling to submit the *Maine* to an impartial tribunal, not even giving Spain an answer to her proposal, nor ever, so far as we have been able to find, assigning any reason for her action. Apparently she wanted to keep the whole question in her own hands, and this view may be strengthened by the fact that our war-cry was "Remember the Maine."

We cannot but conclude that the action of our government in regard to the *Maine* was indefensible, even if it was fully convinced of the fact that the ship was destroyed by torpedo or submarine mine, for that fact would not certainly fix responsibility on Spain. A government is only held to exercise due diligence in preventing injury to others, and just as our government maintained that it was impossible to prevent filibustering expeditions altogether—could not guarantee that there would be none—neither could Spain guarantee absolutely that no injury would be done our battleship. Even if negligence on the part of the Spanish government could be shown, still there would hardly be any justification for war, especially since the government proposed to abide by the decision of a neutral tribunal, and so was willing to make amends. Only in case that it could be shown that the government itself had authorized the deed, would there be any cause for war. The Senate Committee on Foreign Affairs assumed as much, charging the destruction of the ship either to the official act of the Spanish authorities or to a negligence so gross and willing as to amount to criminal culpability. But the Senate Committee was not the proper body to decide such an important matter. If settlement could not be reached through diplomatic channels, then it seems that an impartial tribunal should have passed judgment as to whether Spain was responsible in case it was shown that the explosion was from the exterior, for this would have to be shown before Spain could, in any way, be considered responsible.

This extended treatment of the *Maine* disaster is justified from the fact that, in all probability, there would have been no war, had our battleship not been destroyed. It has been

suggested that the insurgents blew it up in order to cause a rupture between the United States and Spain. However, there is no evidence to show this, though it would seem more plausible than to say that the Spanish government had authorized it. The debates in Congress, the silence of the State Department as to arbitration, the statements of Woodford, Woolsey, Taylor, and others almost establish the fact that war would have been postponed, if not avoided, but for the *Maine*.

We think we may safely say in conclusion that there was neither legal nor moral justification for intervention on account of the destruction of our battleship, and that the future will condemn the action of our government in regard to it.

SELF-PRESERVATION.

As we have seen, the publicists practically agree that intervention is justifiable when the safety and peace of the intervening state are seriously endangered, *i. e.*, where the right of self-preservation is involved. If it can be shown that the peace and safety of the United States, and so her existence, were endangered—seriously endangered—then the conclusion must be that intervention was justifiable. But were the peace and safety of the United States seriously endangered by the struggle in Cuba? What constitutes a menace to the safety and peace of another country of a sufficient nature to warrant or justify intervention? These are the questions which present themselves when we consider the question of the intervention of the United States in Cuba.

President McKinley, in his message of April 11, 1898, after giving three other reasons which would justify intervention, said: "Fourth, and which is of the utmost importance. The present condition of affairs in Cuba is a constant menace to our peace, and entails upon this Government an enormous expense." We thus see that the President put considerable stress upon this particular reason as justifying intervention.

Hannis Taylor, writing on the Cuban question in the *North American Review* for November, 1897, quotes Phillimore to show that the United States would be justified in intervening. Phillimore (Vol. I, p. 464) says: "The right of self-defence incident to every state may in certain circumstances carry with it the necessity of *intervening* in the relations, and to a certain extent of controlling the conduct of another state; and this where the interest of the *intervener* is not immediately but mediately and indirectly affected." It seems that Mr. Taylor's contention on this point is rather far-fetched, for Phillimore distinctly says that intervention in the domestic concerns and internal rights is rarely justified. He says, "self-defence, when the domestic institutions of a state are inconsistent with the peace and safety of other states,"²² might justify intervention. As we have mentioned before, he gives the interference of the European powers in France as an example, since France had declared herself hostile to all monarchical forms of government. It is thus practically the right of self-preservation, and in this there is practical unanimity that intervention is justifiable; but then it must be shown that the circumstances are such as to endanger the existence of the state. Thus a reasonable interpretation of Phillimore will not cover cases like our intervention in Cuba, unless our existence was threatened.

Le Fur says that intervention for self-defence should only take place in case of threatened attack or where the wrongs are of a sufficient nature to imperil the existence of the state intervening, and he asks whether either of these conditions could be ascribed to Spain or the conditions in Cuba. He answers in the negative, saying that Spain tried every means to avoid the war—so that there was no threatened attack. While citizens of the United States suffered loss from the existence of the war, he states that Spain also

²² Phillimore, I, p. 467.

suffered loss from the fact that American citizens sent filibustering expeditions to the insurgents."

Woolsey² does not even mention the fact of self-preservation as a cause for intervention. He gives three reasons which he thinks justifies intervention :

1. The burden of neutrality, *i. e.*, the expense and trouble of preserving neutrality.
2. The dictates of our commercial interests.
3. The call of humanity.

Mr. Woolsey is not an extremist, though he upholds the action of our government on general principles, and to that extent may be said to be an advocate of intervention. He does not say that our government was right in going to the extent of armed intervention, but that intervention in this case was as justifiable as any previous intervention and with as correct motives."

Thus his omission of the claim of self-preservation as a justifying cause for intervention is all the more noteworthy, and we may say, therefore, that he did not consider it a cause or reason which could be well defended, for in a sense his book is a defence of our foreign policy.

It may be said in conclusion then, that the United States was not justified in intervening on account of threatened menace to our peace and safety—that self-preservation was not endangered in the least, so far as we can see. Mr. Phelps, whom we have quoted before, also concludes that there was no necessity for intervention on account of self-defence—no right to vindicate or wrong to redress that entitled us to interfere by arms in support of the Cuban rebellion.

COMMERCIAL AND FINANCIAL INTERESTS.

War is more or less injurious to the commerce of countries which have relations with the parties at war, and this is

² "La Guerre Hispano-Américaine, de 1898," pp. 35-40.

³ "America's Foreign Policy," p. 64.

⁴ *Ibid.*, p. 84.

necessarily so. The authorities, however, do not sanction intervention on that account; that is, where commerce is injured from the mere fact that war exists and where the injury may be said to be done legitimately. And we may say that the practice of nations seems to be in accord with the theories of the writers. In contravention of this last statement, it may be alleged that intervention in behalf of Greece in 1827 was partly, if not largely, due to the injury done to commerce, but it must be borne in mind that the injury there was from pirates which neither Greeks nor Turks could or would suppress, so that in this case we may say that the injury done was illegitimate, since it was not a necessary consequence of the war. It may also be said that that intervention was more defensible in that three nations, not one, decided that the war should end, though it is not the purpose of this paper to defend or justify that intervention. There is certainly no instance, so far as we know, where a single nation has intervened on account of injury done to her commerce, though we concede that there *might* be a case in which a concert of the powers might intervene on account of such injury, if it had become enormous.

As we have already noticed, injury to commerce is not one of the reasons which justify intervention according to publicists, so we must conclude that, theoretically at least, the United States had not the right to intervene on account of the injury done to her commerce so long as Spain acted legitimately and within her own just rights. This, we deem it, would be true however great the injury, unless our very existence as a nation was thereby endangered, and in such case it would be a question of self-preservation.

The question thus becomes one of fact, not of theory. Was our commerce with Cuba illegitimately checked or destroyed? Did Spain exceed her rights in preventing or checking trade with the island? If so, did the United States protest against such action and urge the Spanish government to desist from it? Was our nation's existence serious-

ly threatened or endangered by the loss of trade with Cuba? As to the last question, we may answer it in the negative without fear of contradiction, since our principal imports were sugar and tobacco, both of which we could get along without. Mr. Woodford seemed to think that the sugar question was very vital, for in a conversation with the British Ambassador at Madrid, he informed him how largely the people of the United States were dependent upon Cuba for their sugar supplies. He stated that we did not produce more than one-tenth of what we consumed, and that the people were averse to paying bounties for raising beets, though the bounty system had enabled Europe to produce her great supplies of sugar. Continuing, in his letter to Secretary Sherman, September 13, 1897, he said: "I endeavored to impress upon him that the sugar of Cuba is as vital to our people as are the wheat and cotton of India and Egypt to Great Britain."⁷ If sugar be necessary to our existence, then we could resort to the bounty system. It can by no means be maintained that our country was seriously endangered on account of the injury sustained by our commerce during the insurrection in Cuba.

The right of war necessarily implies the right of the combatants to subjugate the other by any and every method which is recognized by civilized countries as legitimate. This of course includes the right of either combatant to destroy the means of sustenance of the other, no matter whence the source. If their supplies are derived entirely from a domestic source, then that source can be legitimately cut off if possible; if the supplies are wholly, or in part, derived from foreign countries, there can be no question but that either combatant may justly prevent such supplies from reaching their destination—from coming into the enemy's camp. The loss of trade will necessarily injure the neutral states which have hitherto carried on trade with the people now at war. But this is no just cause for interven-

⁷ For. Rel., 1898, pp. 562-63.

tion or war. It might be answered with equal justification that a prohibitive tariff would likewise destroy the commerce of other nations and would, according to this doctrine, be a cause for war, but we take it that no one would have the presumption to say that such a tariff would justify war or intervention.

We therefore consider it as self-evident that the injury sustained by trade during the course of war,—that is, as a natural result of the war—does not give the least justification for the interference of outsiders. Did Spain use any but legitimate means to prevent the trade of the United States with the insurgents? With what facts we have, the answer must certainly be in the negative. In fact, she did not exercise as strict a patrol as she should have used to keep supplies from the insurgents. Secretary Gage said that if Spain had intercepted as many filibustering expeditions as the United States did, few would have reached the island. The ports were in Spanish hands and the Spanish government had the legitimate right to prevent the landing of any goods she saw fit—no blockade being necessary. If vessels attempted to land goods at others than recognized ports, of course they could have been seized and the goods confiscated, just as in case of goods smuggled into the United States. As to imports, we take it that Spain could have prevented the importation of any goods she might have seen fit, and that no country would have had cause for complaint.

We have been unable to find a single instance where the United States protested that her commerce was illegally injured. Our government did, however, often state the fact that our trade was seriously crippled. The Spanish government exacted both import and export duties, but this had been done before the insurrection broke out, and of course she was only exercising a right which belonged to her. In May, 1896, Spain, through the Governor-General of Cuba, issued an order prohibiting the exportation of leaf tobacco from Cuba. Secretary Olney wired Mr. Taylor

that the order did not give reasonable time for Americans to export the tobacco already purchased, though prior to this, Mr. Olney had wired protest against the order if it prohibited the exportation of tobacco actually owned by Americans. Taylor wired the next day, May 21, 1896, that the order was to sustain the tobacco factories in Cuba, as the tobacco supply was short, and that the order would only be temporary. Mr. Olney, on the following day, replied that the motive for such order was fully appreciated, and that the United States did not want to embarrass Spain in the exercise of her legitimate sovereign rights. The Spanish government informed Mr. Taylor on May 25, that an order had been sent to the Cuban authorities, May 8, not only to allow the exportation of tobacco actually owned, but also to permit tobacco which had been contracted for before the issuance of the prohibitive order to be shipped. The United States thus obtained more than she had asked for. By these concessions Spain not only showed a sense of justice and equity, but also demonstrated her desire and willingness to avoid giving any cause for irritation on the part of the United States. The Spanish government was acting within her rights to issue and to maintain the order of prohibition, and this right was never questioned by the United States.² There was necessarily delay in permitting the shipment of the tobacco owned or contracted for, for the Spanish government could not be expected to allow this except on sufficient proof to show that it was owned or contracted for prior to May 16, 1896, the day on which the order was issued. Sometimes this delay seems to have been needlessly long, but, from the evidence at hand, there is nothing to show that the final exportation of tobacco owned or contracted by the Americans before the order went into effect was forbidden. The order was revoked December 31, 1897.³

² For. Rel., 1896, pp. 684-695.

³ For. Rel., 1897, pp. 487-501.

The Spanish government recognized that the struggle in Cuba was detrimental to the trade of the United States, for Señor Gullon, October 23, 1897, in reply to Mr. Woodford's note of September 23, preceding, said that it was hardly possible to conceive that a lasting disturbance could exist in one country without affecting the neighboring countries and justifying all of these in cherishing the desire for peace, even to the extent of proffering friendly councils, "but never interference or intrusion."⁴ This contention of the Spanish government was never denied or questioned by the United States.

The defenders of intervention on commercial and financial grounds say that the struggle had been lagging, that there were no prospects of peace or subjugation, and that the present conditions would continue indefinitely. Granting that this was all true, did that give just cause for intervention? What is to be the limit at which war may continue before intervention takes place? Who is to fix the limit? Can another nation justly, legitimately say when war shall stop on account of her own commercial interests? Evidently, not. Our own civil war would illustrate this. That great struggle certainly was detrimental to Europe—especially to England, since she was dependent on the South for her cotton supplies, but did England consider that sufficient to warrant interference? Would our government have tolerated such doctrines? Then it should at least be consistent in her demands. The action of our Spanish Claims Commission also sustains the contention that the Spanish government acted within its rights.

Mr. Phelps, in the letter to which reference has already been made, says "it was too well settled to admit of dispute that the inconvenience and loss suffered by the commerce of neutral states when war existed, though often considerable, constitute no ground for intervention, but must be borne. The loss of Great Britain in this respect is much

⁴ For. Rel., 1898, p. 583.

greater than ours." ^a He also refers to the Civil War, saying there was no talk of intervention, and that if there had been, it would not have been tolerated.

While admitting that the struggle in Cuba worked great injury to the commerce of the United States, we must say, in truth and justice to Spain, that there seems to be no evidence to show that our trade was improperly crippled, and that there was, therefore, no justification for intervention on that ground so long as the injury did not seriously threaten the safety of the country. _x

THE PROTECTION OF THE LIVES AND PROPERTY OF AMERICAN CITIZENS IN CUBA.

The American-owned property in Cuba has been variously estimated at from 30 to 50 millions of dollars. A considerable amount was, of course, partially or entirely destroyed and most of that which was not gave little or no return for some time. Complaints were time and again made against the destruction of property owned by Americans and claims for damages filed with the State Department at Washington. These claims amounted to about \$9,000,000 for property by January 22, 1897, while about \$1,000,000 for arrest and imprisonment ^a (about \$60,000,000 before Spanish Claims Commission). Many of these claims were no doubt exorbitant, as is generally the case with government claims, some doubtless being almost, if not entirely, unfounded.

The destruction of American property in the island and the danger to the lives of Americans have been considered by some as just cause for complaint and even for intervention; in fact, the protection of American property and citizens was one of the motives given by McKinley for intervention. It seems that American citizens could not claim fairer treatment than Spanish citizens—that they could not claim entire exemption from the burdens of war.

^a N. Y. Herald, March 29, 1898.

^a For. Rel., 1896, p. 710.

Their property was therefore subject to the same laws and conditions as other property, and where fair treatment was accorded, where there was no discrimination, it would seem that there should have been no complaint. So far as we have been able to find there is not a single instance in which American-owned property was not treated with the same consideration as Spanish-owned property. Of course the property owners in either case could bring claim against the Spanish government for damages, *i. e.*, where property was destroyed or taken for use by the government, but it would be discretionary with the government as to whether or not it would pay the claims.

It is true that the greater amount of the property destroyed or made useless for the time being was brought about by the insurgents, yet, in certain cases, the Spanish government would be responsible for damages. Le Fur⁴⁴ admits that this is so—that the Spanish government would be responsible for acts committed by the insurgents, though he says such acts should not be ascribed to the Spanish government or her citizens, as was done by the United States. The Spanish Claims Commission took a different view of the matter, holding that the Spanish government was only responsible for the acts which she could have prevented, but failed to do so. This position will be considered later.

We have been unable to find that our government put forward the claim during Cleveland's administration or the earlier part of McKinley's that the destruction of American property in Cuba was a cause for intervention. Even in the administration of McKinley, the correspondence does not reveal the fact that our government ever held such views. The claim was not made until war was decided upon, and then it seems that it was put forward to strengthen the grounds or claims for intervention, which must have been recognized as being rather weak. No authority, so far as

⁴⁴ "La Guerre Hispaño-Américaine de 1898," p. 38.

we know, recognizes the right of intervention on account of loss naturally resulting to property in the course of a war, nor did our government cite a single authority to sustain its claim. There might be some reason for complications with a country after the struggle was over if it refused to make any reparation for injuries received.

Our government often complained of the maltreatment of American citizens in Cuba—their imprisonment, seizure of their property, etc., as being in violation of the treaty of 1795. We have been unable to find where Spain palpably violated that treaty, and that where the treaty seemed to be violated, the exigencies of the case warranted her actions. These claims for injuries, imprisonment, etc., amounted to over \$1,000,000, and were often unfounded.

Probably the Delgado case would illustrate the true state of affairs as well as any other. Dr. Delgado and his father claimed to be American citizens. Mr. Delgado wrote a letter to Consul-General Williams at Havana saying that he and his son were being persecuted by the Spanish authorities; that his son had been seriously wounded by bullet and machete at the command of a Spanish General. Mr. Williams secured proper orders from the Governor-General of Cuba to have the Delgados brought to Havana under safe-conduct. This was done and the Delgados and one other witness testified to their maltreatment by Spanish officers—that they, five or six prisoners, were tied together and orders given to Spanish soldiers to use machete on them, and that the younger Delgado was also shot. Our government protested strongly against such treatment and demanded of the Spanish government the punishment of the General in command and a large indemnity for the Delgados. The correspondence on this subject lasted from March 10, 1896 to October 31. The Spanish officials had nine witnesses to testify that they had not so maltreated them, and practically established the fact that the insurgents had committed the outrage. Our government, however, still insisted on its claims, but on October 31, 1896, Dr. Delgado

and his counsel wrote to our State Department to desist from the further prosecution of his claim for personal injuries, thus apparently acknowledging the Spanish contention." Fifty pages are given to the correspondence in this case, which after all may be said to have been unfounded.

The case of Julio Sanguily was another which gave rise to considerable correspondence and protests. A certificate of naturalization had been issued to Sanguily August 6, 1878, and passport given him by the State Department on the following day. He had resided in Cuba since that time, having taken a prominent part in the rebellion of 1868-78. He was tried before a civil tribunal for aiding and abetting in the insurrection—being an agent of the Cuban Junta of New York and having appointed officers to enlist troops, etc. He was found guilty and sentenced to life imprisonment. This was confirmed on appeal, but the Queen pardoned him, no doubt to keep the good will of the United States."

A list of American citizens, native and naturalized, arrested and imprisoned in Cuba from February 24, 1895 to January 22, 1897 is given in *Foreign Relations*, 1898, pp. 747-50. There were 74 arrests in all, of whom 60 or more were natives of Cuba, but naturalized citizens of the United States—only about 4 or 5 being of pure American blood, as some were born in the United States of Cuban parents. Some of these were only imprisoned for a short time, being released as soon as it could be shown that they were entirely neutral. Even the "Competitor" prisoners were released—these being taken while landing supplies for the insurgents. McKinley, in his message of December 6, 1897, says there was then not a single American citizen in prison so far as our government was aware.

Cleveland in his message of December 7, 1896, speaking of Cubans taking out naturalization papers, says: "Some of them, though Cubans at heart and in all their feelings and

"For. Rel., 1896, pp. 582-631.

"Ibid., pp. 750-846.

interests, have taken out papers as naturalized citizens of the United States, a proceeding resorted to with a view to possible protection by this government, and not unnaturally regarded with much indignation by the country of their origin." There certainly can be no question but that such things—especially when the Cubans returned to Cuba and in various ways aided the insurgents—were irritating to the Spanish government.

After our government had obtained the release of all her citizens which had been under arrest in Cuba, some of whom were possibly guilty, could it justly and fairly allege the lack of protection and cruel treatment of her citizens as a ground for intervening? Only when a government persists, without apparent cause, in continuing the persecution or maltreatment of foreigners, does there seem cause for armed intervention. This was by no means the case with Spain. There is little doubt in our mind, after a careful perusal of the correspondence on the question, but that we received more than we could justly expect or demand, and that from no strong power would we have received such lenient treatment. This leniency was no doubt largely due to the fact that Spain did not want to give the United States any cause whatever for intervention.

We must conclude then, that our government was not warranted in intervening on account of loss of property in Cuba or of maltreatment of American citizens. This brings us to the last cause which was alleged as justification for intervention—viz., humanity.

HUMANITY.

As we have already seen, intervention on purely humanitarian grounds is not legally justifiable according to the publicists, nor morally unless all selfish motives or purposes are wanting, and even in such cases, the authorities think that one nation of itself should not decide as to when intervention should take place. Judged according to the above statement, the United States could hardly be justified for

intervening in Cuba. However, it may not be amiss to consider the actual conditions, so far as possible, which existed in the island and to see to what extent the Spanish government was responsible for such conditions, what efforts she made to ameliorate them and what she was willing to try to do. Of course this will involve the diplomatic correspondence between the two countries as well as other evidence. The testimony of both sides should be critically scrutinized, and a conclusion approximating the true conditions reached.

The concentration orders of General Weyler have probably been criticized more severely than any other acts of the Spanish government. McKinley said it was not civilized warfare, but extermination. It was issued as a military exigency. Cleveland, in his message of December 1896, said that it was the policy of the Spanish government to protect property at first but that bands of marauders plundered the country until the Spanish government had abandoned its previous undertaking and was acting on the practice of the insurgents. This practice was the wholesale destruction of property to prevent its use by the enemy. He said it was in pursuance of this policy that the concentration orders were issued, though he did not say it was uncivilized warfare. It seems a very cruel order, but we must remember that the conditions were such as probably to justify it. The insurgents did not fight in the open, but fought more in the manner of guerrillas. They plundered and robbed the plantations, burnt the canefields, charged large sums for exemption, and thus were enabled to continue the contest. It was to put an end to such a condition of affairs that the order was issued to concentrate the people in towns and cities. For this reason the Spaniards were charged with preventing the people from tilling their lands and thus of supporting themselves. There can be no doubt but that this order worked hardships and brought sufferings to the people, but all warfare does this more or less. Nor did the order accomplish the purpose for which

it was issued, since the insurgents were enabled to live from the fruits which grew wild.

When Blanco assumed control, this harsh order was revoked to a certain extent. All who had farms as owners or lessees and could re-establish themselves were to apply for permission to return to them. This also included all laborers and artisans who would reside in the farm or plantation where they worked and would pass the night in the fortified place of the farm. This order was issued November 13, 1897.* The entire revocation of the order was made later. Consul-General Lee, who was certainly no partisan of the Spaniards, said in a letter to Secretary Day, November 23, 1897: "The Spanish authorities are sincere in doing all in their power to encourage, protect, and promote the grinding of sugar. The grinding season commences in December. The insurgent leaders have given instructions to prevent grinding wherever it can be done, because by diminishing the export of sugar the Spanish government revenues are decreased. It will be very difficult for the Spanish authorities to prevent cane burning, because one man at night can start a fire which will burn hundreds of acres, just as a single individual could ignite a prairie by throwing a match into the dry grass. I am confident that General Blanco, and Pando, his chief of staff, as well as Dr. Congosto, the secretary-general, with all of whom I have had conversations, are perfectly conscientious in their desire to relieve the distress of those suffering from the effects of Weyler's reconcentration order, but unfortunately they have not the means to carry out such benevolent purposes."† He also states that most of the reconcentrados are non-combatants—women and children.

Gomez, in a letter to McKinley, sent through Mr. Lee, February 15, 1898, said that the revolution had never prevented any one from earning a living, no matter what his

* *Affairs in Cuba*, p. 6.

† *Ibid.*, p. 8.

nationality.* The letter quoted above from Mr. Lee as well as one from Owen McGarr, United States Consul at Cienfuegos, contradict this. The latter, in a letter to Mr. Day,** January 10, 1898, said that all the cane mills in his consular jurisdiction, 23 in number, were operating, but that predatory parties of insurgents had made frequent attempts to fire the canefields and that it required constant and active vigilance to prevent it, as it was an easy matter for one man to start a fire that would destroy hundreds of acres unless promptly checked. He further said that the sugar crop was the supply of all classes and if a large part of it were destroyed, famine would result.

Mr. Brice, Consul-General at Matanzas, in a letter to Mr. Day, November 17, 1897, said that most of the people opposed autonomy, and that the order to allow reconcentrados to return to the country was so restricted as practically to prohibit, but added that even if they could return, little good could result as insurgents had declared that no one should be allowed to grind in the province of Matanzas; that they had already burned the cane on some plantations and that little, if any, sugar would be made." In another letter, December 17, 1897, he said that grinding was being done on a few plantations which were heavily guarded by Spanish troops, but that the insurgents had also been paid to permit it, \$10,000 being given them by one owner for permission to grind his cane."

Mr. Hyatt, United States Consul at Santiago de Cuba, in a letter to Mr. Day, November 26, 1897, said that all political prisoners were freed, but none of them were Americans, as these had been freed from time to time by special orders, which was cause of favorable comment to our nation. In a letter of December 5, 1897, he said he believed two-thirds of the people were missing as compared with three years ago, and that this was true as regards the Spanish army.

* Ibid., p. 25.

** Ibid., p. 28.

* Ibid., p. 29.

** Ibid., p. 30.

He noted the fact that the insurgents had fired seven cannon shots into the buildings of an American who was preparing to grind cane.²⁸ In a letter of December 21, 1897, he stated that an agreement would have to be made with the insurgents before cane could be ground.²⁹ Calixto Garcia, Commander-in-Chief of the Department of the East, issued orders on November 6, 1897, that all persons who should come within their lines commissioned by the enemy with proposals to submit to Spain should be tried and punished as spies.³⁰

Mr. Hyatt, in a letter of January 8, 1898, said that the Spanish government had made energetic and thorough campaign to make autonomy successful, but that Cubans were generally opposed to it—that Spanish officials were removed and Cuban autonomists given their places, etc.³¹ In letter³² of January 12, 1898, he stated that the insurgents had issued orders not to allow any cane to be ground, so that the benefits which would have accrued from the revocation of the reconcentrado order were thwarted by the insurgents. Gomez, in his order of December 2, 1897, said that it was a political measure of war to prohibit the realization of the sugar crop of 1897 and 1898, and that violations would be punished according to their laws. This order was inclosed in Mr. Hyatt's letter. According to all these statements, with his own order as evidence against him, we must conclude that the statement of Gomez, in his letter to McKinley, to which we have referred, was utterly false.

Mr. Hyatt³³ in another letter, January 31, 1898, told about the passenger train which was blown up by dynamite bombs placed there by insurgents. On the next day he wrote that cruel acts were again coming to the front, but that there was some cause for it, as the stoppage of all agricultural pursuits and the blowing up of cars containing innocent people could not be condoned even under the guise of war. He said that Blanco's mild and humane policy was but feebly sec-

²⁸ Ibid., p. 34.

²⁹ Ibid., p. 36.

³⁰ Ibid., p. 33.

³¹ Ibid., p. 38.

³² Ibid., pp. 38-39.

³³ Ibid., p. 40.

oned by his own followers, while the insurgents laughed at his efforts. He quoted Colonel Marsh, of General Blanco's staff, as saying: "Spain fails to comprehend that Cuba has, as it were, two mothers—a political one, which is Spain; a commercial one, which is the United States; and that the political mother fails to see that the commercial mother has any rights, while the commercial mother cannot shake off her responsibility, for God has made them next-door neighbors."¹

Mr. Barker, United States Consul at Sagua La Grande, wrote to the State Department November 20, 1897, that the planters would not grind cane without assurance of immunity from Gomez.² December 28, he stated that he knew that strict orders had been given by the insurgents that mills would not be allowed to grind under any circumstances under penalty of having property destroyed.³

All of these writers tell of suffering, death, and starvation, in their respective cities and districts, but all speak favorably of the efforts made by the Spanish officials to ameliorate the sufferings and their willingness to lend every possible aid in caring for the destitute. There can be no question as to the great destitution of the people and of disease and death—the results of such destitution. This was even true in the Spanish army. Some of these witnesses said it was impossible for pen to describe the actual condition of the people.

The question then becomes, not as to whether there were destitution, disease, and suffering, but who caused this condition of affairs and how was it to be ameliorated? There seems to be no doubt but that complaint could justly be made against both combatants, but we do not think that it can be fairly maintained that the Spaniards should receive the greater blame. Their acts, on the whole, were more humane than those of the insurgents, and especially was this true after General Blanco assumed command, and it was

¹ Ibid., p. 41.² Ibid., p. 46.³ Ibid., p. 50.

also true as long as Campos was Governor-General. Of course it is not denied that the Spanish government was the really responsible government, in fact it was the only government; but for the time being it could not prevent the insurgents from acting as they did. It is as equally true that the Spanish government was the only party which really tried to better the condition of the people. To be sure it was by General Weyler's orders that the non-combatants were gathered into the towns, and the fact that it was considered necessary for military purposes does not lessen the evils of it, but it should at least soften our condemnation of it. It was unquestionably an extremely harsh measure, but Weyler thought that it would take such measures to put down the insurrection. To the people of the South such acts are odious and call to mind Sherman's march to the sea and through the Carolinas, and Sheridan's orders to lay waste the Shenandoah Valley. These two acts, however much suffering and devastation followed in their train, have been justified, or at least tried to be justified, as necessary for military purposes, but who will deny that such acts were cruel? Was intervention of other nations justifiable on that account? The United States would have answered emphatically in the negative, but no nation ever intimated that such acts were cause for outside interference. There were many cruel, inhuman acts in the Civil War, as in all wars, but among civilized nations no country has ever assumed to interfere with war in another on account of cruel treatment or suffering resulting from the war. War is bad at its best, and when it assumes its worst form, General Sherman's definition does not seem inappropriate.

The United States did not intervene, nor did it talk of intervening when General Weyler issued his reconcentrado order. Not even a protest was made against it at the time. When the effect was perceived after some time, our government protested, or at least spoke of the horrible state of affairs and of the effect it had on the American

people. When the Sagasta ministry came into power, the cruel policy of Weyler was reversed. The Sagasta ministry also promised autonomy, and the Queen issued a proclamation granting this. The question of intervention did not become at all acute until after the proclamation granting autonomy and Blanco's order revoking the reconcentrado order, nor did matters then reach a stage of strained relations until after the destruction of the *Maine*. There seems to have been slow improvement in the condition of the people in Cuba, but this was made so from the fact that the insurgents prevented Blanco's order from having any effect.

Judge Phelps, in the *New York Herald*, March 29, 1898, says that if intervention is justifiable for sake of humanity, then intervention should take place in every civil war, and adds that "the humanity of peace is better than the humanity of war." Le Fur compares the devastation in Cuba to that of Sherman in Georgia and of Sheridan in the Shenandoah, and asks whether the latter justified European intervention. He discards the motive of humanity as justifying intervention in case of Cuba, and adds, "that which is stinging (bitter) in this affair, is to see it invoked by the United States. For lack of any other reason the remembrance of the war of secession should have prevented them." He also says that, granting that there were causes—cruelty, tyranny, etc., which would give plausible motive for intervention, as in case of the Armenian massacres,—there should be two conditions added: (1) The intervention should be disinterested, not for conquest; (2) One power by itself should not interfere when there is a question of public international order. Only when several nations unite is there afforded a sufficient guarantee of the disinterestedness of action.^a

There is hardly a case in history where intervention has taken place on purely humanitarian grounds. Le Fur says that the insurgents were as barbarous as the Spaniards and

^a "La Guerre Hispaño-Américaine de 1898," pp. 42-43.

that there would be no justification for intervention in favor of insurgents of this character. The evidence seems to show that the insurgents were more cruel and resorted more to uncivilized warfare than did the Spaniards. Judge Phelps also takes the view that the insurgents brought on the destitution themselves, and in a sense this is true, for they destroyed more than the Spaniards did. Le Fur also says in another place that the United States thinks her will (or wish) is law, that she has an international law of her own and valid only for herself, the Monroe Doctrine, but that it was reversed in this case. In conclusion, he says either the intervention will have been purely disinterested (but not known definitely until the whole matter is settled), and then, in that case even, it will be censurable as based on insufficient motives or reasons; or it will end by the annexation of Cuba, and perhaps of the Philippines and Porto Rico, and then a war of pure ambition, a war of conquest, rendered more censurable still by the motives of humanity and disinterestedness in virtue of which it was undertaken, will have been waged."

An argument which our government never neglected to use was that Spain was unable to subdue the insurgents. On the face of it, this has an appearance of truth, and it might have been proved a fact for that matter. This can be said, however, in contravention of this contention of our government, that Spain claimed that the proclamation granting autonomy had strengthened her cause, and that the insurgents would have been considerably weakened by it had not encouragement been given by our government in sending the *Maine* to Havana. Senator Wellington["] said in a speech on April 16, 1898, that we rather encouraged the Cubans not to accept autonomy by the Senate resolution recognizing their belligerency, and that if our government had used its moral influence in favor of it, the Cubans would have ac-

["]Ibid., pp. 46-48.

["]Cong. Record, 55th Cong., 2d Sess., p. 3952.

cepted it. It seems that that would have been a proper course to pursue, especially since Spain rather requested it; that is, if our government really wanted to see the war end for humanity's sake. The previous insurrection had lasted ten years, and had been put down. Why might this one not be put down within that time? Spain had a considerable army in Cuba—at least twice as large as that of the insurgents. But if the condition of affairs were such that it could not longer be tolerated, why did not our government suggest that fact to the other powers and get their views on the subject? It may be answered that we do not need to consult the powers of Europe as to American questions and that it would be a lowering of our prestige to do so. But Secretary Fish did this very thing during the other insurrection and just after the settlement of the "Virginian" affair, but an unfavorable answer was given."

The question of humanity was undoubtedly the strongest ground, in fact the only ground, so far as we can see, on which the United States could, with any degree of strength, lay claim for justification for intervention. But was our government really justified on this ground? That is a very difficult question to answer. Legally, certainly not; morally, probably so, *i. e.*, if we are to judge the results, for the conditions of the people have been much improved, but if the fact that the improvement of the people justified it, then it would be a question for each country to decide whether it could not give the people of another country a better form of government, improve their material, moral, social, political, or intellectual condition, etc., and so justify intervention. Intervention would then be justified in order to force a people to be free *nolens volens*, as Rousseau would say.

Granting that intervention was necessary, it might be asked in whose favor should it be made? Which party

"Latané, "Diplomatic Relations of the United States and Spanish America," pp. 164-170.

really had the more stable government, promised more for the people, in way of a stable government and safety. Judging from the Haytaian government, Santo Domingo, and some of the South and Central American Republics, one might have supposed that the Cubans, left to themselves, would be a failure as far as government was concerned. The result of self-government has been better than the most optimistic had hoped, but it was the hand of the American government which really gave stability to it and laid the foundation of the present Cuban government.

The condition of things in Cuba demanded a remedy, and had the United States confined her action to this question, there would be little, if any, cause for reproach or censure. If armed intervention were necessary to secure an improvement of conditions there, few objections could have been raised against such action. It is true that most of the authorities do not recognize interventions on purely humanitarian grounds unless by a concert of the powers, but it must not be forgotten that the position of the United States, as well as her past history, go far toward eliminating the need of joint action on the part of all the states. It is not good policy, at least, for one country of itself to judge the moral or immoral conduct of another country, for it is likely to be abused. It cannot be pretended that the intervention in this case was at all legal, though it could be claimed that it was moral, were there no questions of self-interest involved. It may well be asked, whether, even if the intervention could be justified on moral grounds, it was not possible to have secured the desired end without armed intervention. If so, then intervention could not be justified on moral grounds, but this phase of the question will be considered in the next chapter.

THE SPANISH TREATY CLAIMS COMMISSION.

Our government often characterized the war in Cuba as uncivilized, barbarous, and contrary to the accepted

methods of civilized nations in waging war. This was one of the alleged motives for intervention, as we have seen, though we have reached the conclusion that intervention was hardly justified on that account. It was, however, undoubtedly our strongest ground for intervention. It may be well now to submit evidence after the fact to strengthen the conclusion we have already reached.

The seventh article of the treaty of peace concluded between Spain and the United States, December 10, 1898, reads as follows:

Art. VII. "The United States and Spain mutually relinquish all claims for indemnity, national and individual, of every kind, of either government, or of its citizens or subjects, against the other government that may have arisen since the beginning of the late insurrection in Cuba and prior to the exchange of ratifications of the present treaty, including all claims for indemnity for the cost of the war."

"The United States will adjudicate and settle the claims of its citizens against Spain relinquished in this article."

By act of Congress, March 2, 1901, a commission was appointed, known as the Spanish Treaty Claims Commission, to pass on the claims assumed by the United States in the above article. It may be well to give in full the rules or principles by which the Commission stated it would be governed in passing upon the various claims.

The following rules were announced November 24, 1902 and April 28, 1903:

"1. Under Article VII of the treaty of Paris the United States assumed the payment of all claims of her own citizens for which Spain would have been liable according to the principles of international law. It follows, therefore, that the sole question before this Commission is that of the primary liability of Spain, which is not in any way enlarged by the agreement of the United States to adjudicate and pay such claims.

"2. Although the late insurrection in Cuba assumed great

magnitude and lasted for more than three years, yet belligerent rights were never granted to the insurgents by Spain or the United States so as to create a state of war in the international sense which exempted the parent government from liability to foreigners for the acts of the insurgents.

"3. But when an armed insurrection has gone beyond the control of the parent government, the general rule is that such government is not responsible for damages done to foreigners by the insurgents.

"4. This Commission will take judicial notice that the insurrection in Cuba, which resulted in intervention by the United States and in war between Spain and the United States, passed, from the first, beyond the control of Spain, and so continued until such intervention and war took place.

"If, however, it be alleged and proved in any particular case before this Commission that the Spanish authorities by the exercise of due diligence might have prevented the damages done, Spain will be held liable in that case.

"5. As war between Spain and the insurgents existed in a material sense, although not a state of war in the international sense, Spain was entitled to adopt such war measures for the recovery of her authority as are sanctioned by the rules and usages of international warfare. If, however, it be alleged and proved in any particular case that the acts of the Spanish authorities or soldiers were contrary to such rules and usages, Spain will be held liable in that case.

"6. As this Commission has been directed by Congress to ascertain and apply the principles of international law in the adjudication of claims of neutral foreigners for injuries to their persons and property caused by a parent state while engaged in subduing by war an insurrection which had passed beyond its control, it cannot fail, in determining what are and what are not legitimate war measures, to impose upon the parent state such limitations as the consensus of nations at the present day recognizes as restricting the exercise of the right to remove all the inhabitants of a designated territory and concentrate them in towns and

military camps and to commit to decay and ruin the abandoned real and personal property or destroy such property and devastate such region.

“7. Adopting therefore a wide and liberal interpretation of the principle that the destruction of property in war where no military end is served is illegitimate, and that there must be cases in which devastation is not permitted, it should be said that whenever reconcentration, destruction, or devastation is resorted to as a means of suppressing an insurrection beyond control the parent state is bound to give the property of neutral foreigners such reasonable protection as the particular circumstances of each case will permit. It must abstain from any unnecessary and wanton destruction of their property by its responsible military officers. When such neutral foreigners are included in the removal or concentration of inhabitants, the government so removing or concentrating them must provide for them food and shelter, guard them from sickness and death, and protect them from cruelty and hardship to the extent which the military exigency will permit. And finally, as to both property and persons, it may be stated that the parent state is bound to prevent any discrimination in the execution of concentration and devastation orders against any class of neutral foreigners in favor of any other class or in favor of its own citizens.

“8. Subject to the foregoing limitations and restrictions, it is undoubtedly the general rule of international law that concentration and devastation are legitimate war measures. To that rule aliens as well as subjects must submit and suffer the fortunes of war. The property of alien residents, like that of the natives of the country, when ‘in the track of war’ is subject to war’s casualties, and whatever in front of the advancing forces either impedes them or might give them aid when appropriated, or if left unmolested in their rear might afford aid and comfort to the enemy, may be taken or destroyed by the armies of either of the belligerents; and no liability whatever is understood to attach to

the government of the country, whose flag that army bears and whose battles it may be fighting.

"If in any particular case before this Commission it is averred and proved that Spain has not fulfilled her obligations as above defined she will be held liable in that case.

"9. It is the opinion of the Commission that the treaty of 1795 and the protocol of 1877 were in full force and effect during the insurrection in Cuba, and they will be applied in deciding cases properly falling within their provisions.

"10. As to the first clause of Article VII of the said treaty, wherein it is agreed that the subjects and citizens of each nation, their vessels, or effects shall not be liable to any embargo or detention on the part of the other for any military expedition or other public or private purpose whatever, the Commission holds that whether or not the clause was originally intended to embrace real estate and personal property on land as well as vessels and their cargoes, the same has been so construed by the United States, and this construction has been concurred in by Spain; and therefore the Commission will adhere to such construction in making its decisions.

"11. But neither this particular clause nor any other provision of the treaty of 1795 will be so applied as to render either nation, while endeavoring to suppress an insurrection which has gone beyond its control, liable for damages done to the persons or property of the citizens of the other nation when found in the track of war or for damages resulting from military movements unless the same were unnecessarily and wantonly inflicted." "

The seventh and eighth propositions are especially interesting to us since they more or less agree with the conclusions we had reached, for it does not appear that Spain violated either of the propositions or rules as stated by the

Commission. By these propositions the Commission sanctions the reconcentrado order of Weyler, against which our government so strongly protested, and recognizes that Spain was acting legitimately all the while in her efforts to suppress the insurgents, and in this view we entirely concur. Our government considered that the concentration orders were largely responsible for the horrible state of affairs in Cuba, and so to that extent were greatly responsible for intervention on humanitarian grounds, if indeed the intervention was made on those grounds. Thus our government, by a somewhat strange coincidence, stands practically self-condemned for interfering, since a Commission appointed by it, composed entirely of our own citizens, have declared that the concentration orders were legitimate and sanctioned by the civilized nations of the present day as civilized methods of warfare, notwithstanding the fact that the Executive Department of our government had repeatedly declared such methods to be barbarous and uncivilized and that Congress had practically indorsed the Executive by enacting legislation requested by him. There is no evidence to show that Spain violated the principles as stated by our Commission, but there is evidence to show that she did not discriminate against, but in favor of, Americans; that she did what she could, to the extent which the military exigency permitted, to relieve suffering, provide food, shelter, etc., for the reconcentrados. There is also evidence to show that the concentration orders were made for military purposes, and this was recognized by Cleveland in his message to Congress, December 6, 1896.

Commissioner Chandler* gives the orders of Weyler, Gomez, Grant, Sherman, Sheridan, and Ewing, and it may be said that the orders of Weyler are about as humane as any of them—and in some instances more so. Chandler quotes Sherman as saying in his memoirs: "I do sincerely believe that the whole United States, North and South,

* Ibid., pp. 123-134.

would rejoice to have this army turned loose on South Carolina, to devastate that state in the manner we have done in Georgia." (p. 213.) He also gives the letter of General Halleck to Sherman, in which the former says: "Should you capture Charleston I hope that by *some accident* the place may be destroyed, and if a little salt should be sown upon its site it may prevent the growth of future crops of nullification and secession." (p. 223.) General Halleck, who was chief of staff to Grant, gave orders to Hunter to make all the valleys south of the B. & O. road a desert as far as possible, and that the people should be notified to move out. Grant also wanted "his (Hunter's) troops to eat out Virginia clear and clean as far as they go, so that crows flying over it for the balance of the season will have to carry their provender with them."¹¹ Having sanctioned such orders as these, how could our government consistently protest against the Spanish concentration orders? Commissioner Chandler, with whom concurred Messrs. Wood and Diekema, noted the fact that McKinley had been in the Union army and knew of the concentration orders of General Ewing in Missouri, as well as of Sherman's and Sheridan's devastation, and adds:¹² "But the President had not then seen and probably did not anticipate the concentration and devastation by United States troops under General Bell in the Philippines. Possibly if he had supposed that in addition to arousing just national indignation, in order to bring on war with Spain for the liberation of Cuba, he was announcing a new principle of international law, and making a finding of facts happening in war which should be conclusive and binding upon the United States courts in all future time, he would have withheld or moderated the soul-stirring utterances with which he began a great war for the freedom and independence of a new nation." After referring to McKinley's characterization of the reconcentration orders, the Commis-

¹¹ Ibid., p. 134.¹² Ibid., p. 101.

sioners ask: "Are these earnest utterances of his sentimental appeal to arms to be the law and the facts upon which, without further investigation or meditation, the Commission is to reach its judgments upon claims?"¹⁰⁰ The majority of the Commission thus apparently criticizes the view taken by the Executive Department. The counsel for the claimants before the Commission argued that they should follow the statement of the Executive and this was the view taken by Messrs. Chambers and Maury of the Commission. The latter said that the Commission was bound to hold the concentration orders as uncivilized warfare, since the political department of the government had so declared, but the majority of the Commission held that decisions might thus be made on false principles and non-existent facts, and that such doctrines were intolerable. "In other words, the decisions of the Commission must be made upon principles which are contrary to those of international law and are applied to facts which do not exist, if the Executive of the United States has at any time asserted those unsound principles and assumed those non-existent facts."¹⁰¹

The Commission said it would only hold those claims valid for which Spain would have been liable had no war taken place between Spain and the United States, and that as the principles of international law only would have been applied in that case, so would it be held in this case, the declarations of the Executive Department not being considered binding.¹⁰² In another place the Commission says: "To claim that we are bound by erroneous assertions of law and fact made by the President in his numerous messages to Congress is an urging of subserviency further than the Commission is willing to go."¹⁰³ The Commission here clearly intimates that the President made erroneous assertions, and a close examination of the facts justifies the conclusion. Mr. Diekema says: "The Commission, therefore,

¹⁰⁰ Ibid., p. 100.

¹⁰¹ Ibid., p. 99.

¹⁰² Ibid., p. 103.

¹⁰³ Ibid., p. 109.

cannot resist the conclusion that Spain was a 'reasonably well-ordered state,' within the meaning of that term in international law, and also, on the whole, exercised that degree of diligence in suppressing the insurrection which the law of nations requires." " These statements, together with the third and fourth propositions by which the Commission was governed in adjudicating the claims, go far toward weakening the contentions of our government in justification of intervention.

To state that the parent government is not responsible for the acts of the insurgents is more than our government ever admitted. In fact President Grant in his message of December 7, 1875, gave as one of the reasons for not recognizing the Cubans as belligerents that such recognition "would release the parent government from responsibility for acts done by the insurgents," and McKinley incorporated this language in his message of December 6, 1897."

Chief Justice Fuller, in the case of "The Three Friends" (166 U. S. p. 63), gives as one of the effects of the recognition of belligerency, "the abandonment of claims for reparation on account of damages suffered by our citizens from the prevalence of warfare."

Mr. Maury, in his dissenting opinion, said, in regard to the fourth proposition as stated by the majority of the Commission, "If Spain was already released from liability for acts of the insurgents by the magic of the 'beyond control' doctrine, it was little less than solemn trifling for our Executive to allege as a ground against conceding recognition to the Cubans that such action would release Spain from liability to our citizens for their acts." Said he, the "beyond control" had involved "the United States in the inconsistency of having pressed upon the attention of the government of Spain claims of our citizens for losses and injuries caused by the insurgents, as indicating 'that the rights granted by international law and by treaty to the citizens of

" *Ibid.*, p. 39.

" *Ibid.*, p. 170.

the United States residing in Cuba have not been observed by the Spanish authorities in the island' and of having compelled Spain to settle these and other claims by cession of territory and of now refusing, with satisfaction in its hands to recognize these claims as having any validity." Continuing, he said: "Indeed, this action of the Commission has a still more serious phase, for if it was the exercise of a valid jurisdiction it is binding on the United States, and might provoke Spain to complain of having been compelled to grant indemnity for what the United States now repudiates."¹⁷ This does seem to follow as a logical conclusion, and our government through its Attorney General and this Commission, has now taken the position which Spain always maintained, and correctly we believe, in most cases. While the majority of the Commission evidently have the facts and weightier evidence to sustain their statements and conclusions, yet the minority have closely followed the declarations of the Executive Department and their conclusion is thus more consistent with the action of our government.

Commissioner Chandler did not hesitate to say, even though he criticized the assertions of the Executive as to concentration, that "the war begun by the United States against Spain was the most disinterested conflict hitherto known in the history of the world. . . . Never was self-interest less considered in a war of one nation to secure and maintain the freedom and independence of an alien people despotically governed and systematically oppressed."¹⁸ There seems to be a great lack of consistency in the opinions and statements of the majority of the Commission, for in connection with the above statement, we should remember that Mr. Chandler practically assents to Mr. Wood's statement that the war was waged on account of injury to commerce, the expense of maintaining neutrality, danger of contagion on account of unsanitary conditions in Cuba, destruction of American property in Cuba, the suffering of non-combatants, etc."¹⁹

¹⁷ Ibid., p. 171.

¹⁸ Ibid., p. 88.

¹⁹ Ibid., p. 49.

Commissioner Maury said the question for the Commission to determine was: "What claims the United States had decided for itself that Spain was liable for, and then, with sword still in hand, forced Spain to settle by cessions of territory,"¹⁷⁴ and so, according to this view, the primary liability of Spain would not have to be considered. Mr. Maury, however, goes rather to the extreme, when he says that Spain must be taken to have acquiesced in the judgment of our government as to the concentration orders being in violation of the rules of civilized warfare, since she abandoned the odious features of them, in obedience to the remonstrances of the United States, and thus fixed her liability under the law of nations.¹⁷⁵ This does not necessarily follow, for there can hardly be any question but that Spain revoked those orders in order to quiet the United States, and besides Blanco did not seem to regard them as very effective.

Mr. Chambers, in his dissenting opinion, is somewhat inconsistent, and besides makes some statements which are hardly justifiable. "Just as a nation," he says, "when it intervenes in the internal affairs of another, is heavily burdened with the proof that it vindicates a right, in the same sense is a nation, when it refuses belligerent rights to rebels and adopts measures to suppress an insurrection, heavily burdened with the proof that the destruction of the neutral's property as a war measure was necessary."¹⁷⁶ After stating that a nation must produce strong evidence to justify intervention, he almost in the same breath says: "Until the United States declared war against Spain (this had to be done before intervention in Cuba) it was an open question whether the right existed, and was a subject of international discussion; but when the declaration was made the incident was thereupon closed, and that act itself decided the existence of the cause for intervention and became its own justification."¹⁷⁷ According to this doctrine the state can do no wrong.

¹⁷⁴ *Ibid.*, p. 154.

¹⁷⁵ *Ibid.*, p. 174.

¹⁷⁶ *Ibid.*, p. 198.

¹⁷⁷ *Ibid.*, p. 198.

Mr. Crammond Kennedy writing in the *North American Review* for February 1905, says, in regard to the report of the Commission, that it was proper and natural for the United States to demand indemnity for the injuries and losses suffered by her citizens during the insurrection, since the grounds and purposes of the war were given in the President's message of April 11, 1898. He says the Commission has put most of the claims in peril by virtually ignoring the war of intervention, and by declaring that, under the law of nations, Spain was not liable for the acts of the insurgents, and that concentration and devastation were legitimate war measures. He furthermore states that the Commission had substantially decided that the grounds on which the United States intervened were false or mistaken, and that Spain was all the time within her rights in what she did in the island. This does not appear to be too strong a statement, and we might say that even if the Commission had decided otherwise, the fact would still remain that the United States was hardly justified in intervening. The mere fact, however, that a Commission appointed by the same government which carried on the war, while declaring the war just and the most disinterested of modern times, yet practically decides that the grounds upon which and for which war was begun and waged were false or mistaken, strengthens the conclusion which has been reached by the facts as we have been able to see and to judge them. We do not know whether the decision of the Commission will be sustained by the other Departments of our government, but we venture to say that it will stand, for the decision does not go to quite the length for which the Attorney General contended. Our government thus stands before the world as having said after the war that there was little justification for the war—at least as having eliminated the great cause of the war.

After giving evidence after the fact which strengthens our conclusion that the United States was not justified in intervening on any of the grounds which she alleged,

it may be well to consider whether there was not sufficient justification if all of the motives be taken together. In other words, if we do not believe the United States was justified in intervening either on account of the *Maine*, for injury to commerce, for injury to American property or citizens in Cuba, for self-preservation, or for humanity, might not all these various reasons or grounds be merged, so to speak, into one complex whole or cause which would justify intervention? It is seldom that one act of itself results in war—often a mere trifle, after repeated or continued provocation, is sufficient to “loose the dogs of war.” The question thus becomes rather complex, and a categorical answer can hardly be given.

While it is probably true that intervention would not have occurred when it did had it not been for the destruction of our battleship, and while we have already reached the conclusion that that fact did not warrant intervention, it is equally true, we believe, that had there been no other complications or causes for intervention, the United States would not have intervened. It may also be said that the United States would not have intervened on account of any one of the other causes which were given as justifying her action, if those causes were taken separately, that is, had there been nothing more than the injury to our commerce, intervention would not have taken place when it did, if at all. This applies with equal force to each of the other causes with the possible exception of humanity. It would thus appear that no one of the reasons, save possibly that of humanity, would have brought about intervention; but that when all of these causes were taken together that was the result. It is doubtful whether international law takes into consideration cumulative causes in this way, though it seems that when such causes are strong enough they should be considered just as they are in criminal law. If this theory is accepted then the intervention in Cuba can possibly be justified, provided all the diplomatic means of accomplishing the desired ends were

previously exhausted. As to whether this was done or not remains to be seen in the chapter that follows.

After all is said and done, however, it must be recognized that states in their international relations are not bound by hard and fast rules, and while it would not do to recognize as a definite and general principle of international law that one state may decide as to the morality or humanity of the conduct of another state, it is nevertheless certain that no state can or should be wholly indifferent to the morality of the conduct of another state, even when that state is acting within its technical rights. We have already seen that the intervention in Cuba cannot be justified according to these strict principles of international law, but there was a feeling on the part of the people of the United States that Spain was not sincere in her promise to grant autonomy and self-government to the island, or that if she was that she would be unable to enforce them. It was also strongly felt that Spain was really unable to subdue the insurgents and that something should be done for the sake of humanity. Thus we may say that though the United States may have failed in her efforts to justify the intervention by the principles of international law, yet when judged from the viewpoint of what may be termed the higher principles of international morality, she may have had justification for her action. It is therefore to be emphasized that the aim of the author in preparing this study has been, not to determine whether or not the United States, taking everything into consideration, was justified in intervening, but to determine whether the technical arguments, which she advances to justify herself in doing so, were in fact, when judged from the viewpoint of strict international law, valid arguments.

CHAPTER III.

SPAIN'S EFFORTS TO AVOID WAR.

There is another proposition which we have not thus far considered, and that is, granting that the alleged motives or reasons within themselves were such as to warrant intervention, is it not possible that the purposes for which intervention was made, *i. e.*, as alleged by the United States, could have been obtained through diplomatic channels or by moral pressure? It is to this phase of the question that we now turn our attention. If it can be shown that practically the same things could have been obtained for Cuba without resorting to arms, then it seems we must conclude that intervention was not justifiable, especially for the time being. The principal reason—at least the strongest reason for intervention was to put an end to the struggle and its evils in Cuba. If the insurrection should come to an end, of course the other evils, of which the United States complained, would cease.

We have already seen that Spain proposed the only proper way of disposing of the *Maine* affair, that is, to leave it to the decision of disinterested parties. This eliminates a very important consideration or factor, for it was largely due to the *Maine* that intervention took place. Even Mr. Taylor, an advocate of intervention, admits this. Mr. Woolsey and Minister Woodford also state the same thing. Leaving this out of consideration, it thus seems more than probable that intervention would not have taken place when it did.

But how about the other questions? From a study of the diplomatic correspondence which has been published, one is forced to the conclusion that Spain was gradually, but slowly and surely yielding to the demands of the United

States. We have already seen how Spain yielded to the demands or requests of the United States in regard to the exportation of tobacco—granting more than was really requested, and that fair treatment was usually given to Americans who were captured. President McKinley noted the fact (in his message of December, 1897) that not a single American was in prison so far as the State Department was aware, and Mr. Hyatt, United States Consul at Santiago, in a letter to Mr. Day, November 26, 1897, said that all American prisoners had been released from time to time by special orders. Spain thus clearly showed her desire and anxiety to avoid a conflict with the United States, often complying with our requests when she would have been perfectly justified in refusing them.

Mr. Sherman, in his instructions to Mr. Woodford, July 16, 1897, suggested that the time had come for Spain to make "proposals of settlement honorable to herself and just to her Cuban colony"—of course having reference to autonomy, for Mr. Woodford, in conversation with the British Ambassador at Madrid, speaking of the same thing uses the word autonomy. Mr. Woodford first communicated the contents of Sherman's instructions to the Spanish government September 23, 1897. Señor Gullon, in his reply October 23, said that the present (Sagasta) ministry proposed to carry out the manifesto of the Liberal party which was made June 24, 1897, before it came into power. This manifesto favored fair treatment for the Cubans—in fact an autonomous government. On November 13, 1897, Mr. Woodford wrote to Mr. Sherman that the Queen would sign the decrees granting autonomy to Cuba about November 25. The Queen did sign three decrees or bandos on that date which granted practical autonomy to the Cubans. The Sagasta ministry might have proposed those decrees anyway, but it seems significant that the suggestion or request of the United States should have been so promptly followed. As to whether or not these decrees would have been put into execution for any length of time is a question

which does not concern us here. What does concern us is that these decrees did practically grant what the United States suggested, and Señor Gullon,¹ in his memorandum of April 18, 1898, called attention to this happy coincidence.

Our government protested very strongly against the reconcentrado order of Weyler. Blanco sailed from Spain for Cuba October 19, 1897. On November 13, 1897, he issued a bando partially revoking that order, thus again showing a desire to please our government. The order was entirely revoked somewhat later.

De Lôme, Spanish Minister at Washington, in a private letter, had criticized the President, using disrespectful terms in speaking of him. This letter was stolen from the Post Office in Cuba and published. Whereupon De Lôme resigned, his resignation being immediately accepted, disavowal of his action being made by the Spanish government. Mr. Day, in a note to Mr. Woodford, March 3, 1898, said that the De Lôme incident was fortunately closed.²

Mr. Woodford, writing to the President February 26, 1898, says he has secured the practical adjustment of every important matter committed to him. Speaking of the desire of the Spanish government to avoid war, he says: "They want peace if they can keep peace and save the dynasty. They prefer the chance of war, with the certain loss of Cuba, to the overthrow of the dynasty. . . . While I do not think they can make any more direct concessions to us and retain their power here, I do begin to see possible ways by which they can make further concessions to Cuba through the insular Cuban government and so, possibly, avert war." . . . And again, "as hitherto reported, they can not go further in open concessions to us without being overthrown by their own people here in Spain."³

While the Spanish government realized that Consul-General Lee was anti-Spanish, yet it did not ask for his

¹Spanish Red Book, 1898.

²For. Rel., 1898, p. 680.

³Ibid., p. 665.

recall, as our government had intimated that such a request would not be granted. In an unofficial way Mr. Woodford was informed of the Spanish view of Lee's attitude, for he was told that Spain did not regard his reports as trustworthy, and that he (Lee) freely admitted he was deadly against autonomy.⁴

Mr. Woodford wrote the President on March 9, 1898, that a very prominent Spanish merchant had given a family dinner at which the latter talked very deliberately and logically about the Cuban situation. "He said, in substance," wrote Mr. Woodford, "that Spain had done all she could do or expected to do in recalling Weyler, in sending Blanco, in abandoning the policy of reconcentration, in establishing legitimate warfare, in rescinding the tobacco edicts, in encouraging planting and grinding, in establishing autonomy, in offering full pardon to all rebels, in permitting Cuba to make her own tariff regulations, and finally in entering deliberately and honestly on the negotiation of commercial treaties that should open the market of Cuba to reciprocal trade with the United States."⁵ In letter of March 17, 1898, he said he had more faith in possible peace than he had had since he left the United States, though he seemed to think that it would result in the purchase of Cuba by the United States.⁶ On the next day he wrote about a heated meeting of the Council of Ministers, and said that the ministers of war and navy advised immediate action, as each day increased the war preparations of the United States (\$50,000,000 had been appropriated by Congress about March 8), but "that Moret had argued for peace; that Sagasta had finally and positively declared for peace on any terms at all consistent with Spanish honor; that the peace party had triumphed; and that the ministers of war and navy had withdrawn their threats of possible resignation."⁷ In the same letter he tells of a conversation with Minister

⁴ Ibid., p. 675.

⁵ Ibid., p. 682.

⁶ Ibid., p. 687.

⁷ Ibid., p. 688.

Moret, in which the latter said: "We must have peace with honor to Spain. Tell me what can be done." Mr. Woodford replied that he thought autonomy a failure for the present at least, and that there was only "one power and one flag that can secure peace and compel peace. That power is the United States, and that flag is our flag." Mr. Moret asked, "Is that your serious and settled judgment?" To which Mr. Woodford replied, "It is." Continuing the letter says: "He was quiet for a while. I saw that he grew very pale. Then he gathered himself together and replied: 'What do you suggest?'" Mr. Woodford then suggested that the only solution was the sale of the island by Spain to the United States, and that this need not be made public, but could be in secret memorandum. At the close of the conversation Mr. Moret said: "I do not commit myself to details. The right way can be found if we will both do our best, and I will work with you for peace, and I am sure we shall get together as to details. This must be confidential between us, for we are not talking as officials."

On March 19, Mr. Woodford cabled the President as follows: "If you will acquaint me fully with general settlement desired I believe Spanish government will offer without compulsion and upon its own motion such terms of settlement as may be satisfactory to both nations." This telegram was shown to Moret, and while he did not approve it officially, yet said he would work personally with Mr. Woodford to secure the results therein indicated. In the same letter in which he tells of this, he states that Moret said the Queen would prefer to abdicate her regency and return to Austria rather than part with any of Spain's colonies, but continuing, he says: "I am sure that Mr. Moret to-day regards this [parting with Cuba] as inevitable, and is only seeking the way in which to do it and yet save Spanish honor. He will probably find the way to do it, even if he

has to sacrifice himself. I hope this last may not be necessary. I do not believe it will be."^a

Mr. Woodford, in a telegram to the President, March 25, 1898, said: "He (Moret) says that if we asked for immediate armistice he believes Spanish government will grant it and enforce armistice on sole condition that insurgent government does the same." Mr. Woodford requested authority to ask the Spanish minister of foreign affairs the following question: "Will you decree and enforce immediate armistice until the end of the rainy season if insurgent government will do the same?" Continuing, he said, "I believe that if immediate peace can be secured now, lasting until September 15, hostilities will not be resumed." In reply to the above request, Mr. Day telegraphed March 26, 1898, "For your own guidance, the President suggests that if Spain will revoke the reconcentrado order and maintain the people until they can support themselves and offer to the Cubans full self-government, with reasonable indemnity, the President will gladly assist in its consummation. If Spain should invite the United States to mediate for peace and the insurgents would make like request, the President might undertake such office of friendship."^b It seems that our government thus clearly avoided giving a direct answer, and there must have been some ulterior motive in it.

On March 27, Mr. Day cabled Woodford to see if the following could be obtained:

"First. Armistice until October 1. Negotiations meantime looking for peace between Spain and insurgents through friendly offices of President of the United States.

"Second. Immediate revocation of reconcentrado order so as to permit people to return to their farms, and the needy to be relieved with provisions and supplies from the United States cooperating with authorities so as to afford full relief.

"Add if possible:

^a Ibid., pp. 692-93.

^b Ibid., p. 704.

"Third. If terms of peace not satisfactorily settled by October 1, President of the United States to be final arbiter between Spain and insurgents.

If Spain accepts, President will use friendly offices to get insurgents to accept plan. Prompt action desirable."¹⁰

On the same day, but before receipt of the above telegram, Mr. Woodford sent a telegram to Mr. Day in which he asked what was meant by "full self-government, with reasonable indemnity." He also asked whether it would be satisfactory if he could secure immediate and effective armistice or truce to take effect on or before April 15. He stated that he might be able to induce the Spanish Minister to submit the question of peace to the Cuban Congress which would meet at Havana May 4, and asked, "If I can secure these two things with absolute and immediate revocation of concentration order may I negotiate? I believe that an immediate armistice means present and permanent peace." He also stated that he believed this would mean practical independence for Cuba or that it would pass from Spanish control."¹¹ Mr. Day replied to this the following day, March 28, that "full self-government with indemnity would mean Cuban independence." In another telegram of the same day he said: "Important to have prompt action on armistice matter."

Of the two concessions which Mr. Day, March 27, requested Woodford to see if he could obtain, the second one, the revocation of the reconcentrado order, was granted March 30, 1898."¹² General Blanco published a bando revoking the order throughout the whole island. This was in accordance with instructions from the home government." On the next day, March 31, the Council of Ministers made in substance the following statements.

1. That Spain was willing to submit the question of the *Maine* to arbitration.

¹⁰ *Ibid.*, pp. 711-12.

¹¹ *Ibid.*, p. 713.

¹² *Ibid.*, p. 725.

¹³ *Ibid.*, p. 726.

2. That revocation of reconcentrado order had been published by Blanco, and that 3,000,000 pesetas (about \$600,000) had been placed at disposal of Blanco to enable the country people to return to their work.

3. That the question of peace would be confided to the insular parliament.

4. That armistice would be granted if asked for by the insurgents.

Our government had requested the second one and Mr. Woodford had asked for the third, apparently with the assent of our government, as he had informed the State Department of his intentions, so that the Spanish government had granted without delay, reservation, or hesitation two of the requests, and the fourth one was almost a concession. No doubt the Spanish government thought it too much for the Spanish pride and honor to request an armistice of the insurgents, and it does seem that the request should have come from the other side.

In a telegram to the President just after the above conference, Mr. Woodford says, "I am told confidentially that the offer of armistice by Spanish government would cause revolution here. Leading generals have been sounded within the last week, and the ministry have gone as far as they dare to go to-day. I believe the ministry are ready to go as far and as fast as they can and still save the dynasty here in Spain. They know Cuba is lost. Public opinion in Spain has moved steadily towards peace. No Spanish ministry would have dared to do one month ago what this ministry has proposed to-day." In letter to the President, April 1, he says: "The Spanish ministers said yesterday that their statement went as far as they could possibly go. Perhaps this is true, but they said the same some weeks ago and yesterday they yielded on two points." And in a letter to Mr. Day on the following day, he says: "I have worked hard for peace. I am hoping against hope, and

²⁴ Ibid., pp. 727-28.

still I cannot bring myself to the final belief that in these closing years of the nineteenth century Spain will finally refuse, on a mere question of punctilio, to offer immediate and effective armistice. I still believe that immediate armistice will secure permanent and honorable peace with justice to Cuba and sure protection to our great American interests in that island. . . . If arms are now laid down on both sides they will not be taken up again.”¹⁸

Mr. Woodford was right in his belief that Spain would finally yield to our request for an armistice, for on the next day he cabled the President that the Pope would offer his mediation to get Spain to grant an armistice. Señor Gullon thought the Spanish government would accede to the papal request, but that it asks the United States to show their friendship for Spain by withdrawing their warships from vicinity of Cuba as soon as armistice is proclaimed, and Mr. Woodford added that he trusted our government would do this.* Continuing, he said: “If conditions at Washington still enable you to give me the necessary time I am sure that before next October I will get peace in Cuba with justice to Cuba and protection to our great American interests. I know that the Queen and her present ministry sincerely desire peace and that the Spanish people desire peace, and if you can still give me time and reasonable liberty of action I will get for you the peace you desire so much and for which you have labored so hard.”¹⁹ Mr. Woodford mentioned the fact that he was informed that the Pope’s proposal was at the suggestion of the American government, but he thought this a mistake; and so it proved to be. It seems that, for some cause, President McKinley, or at least our government, was not now so anxious to secure peace, for a peace was now clearly within reach which Mr. Woodford thought would mean the practical abandonment of Cuba to Spain, but our government was unwilling to accept the conditions which it had prescribed as

¹⁸ Ibid., p. 731.

¹⁹ Ibid., p. 732.

necessary to bring about an amicable settlement of matters. For in reply to the telegram of Mr. Woodford, saying that peace was practically in sight, Mr. Day cabled the same day that armistice must be voluntary on the part of each, and that to be effective it must be immediately proffered and accepted by the insurgents, and adds: "Would the peace you are so confident of securing mean the independence of Cuba?"²² The President had said, through Mr. Day, on March 27, that he would try to get the insurgents to accept the plan if proposed by Spain. So that within a week our government receded from its position. There was nothing in any of the notes to Mr. Woodford to encourage him in striving for amicable settlement, but new demands were forthcoming as soon as he got concessions for the others. To the request of the Spanish government, which seems a legitimate and justifiable one, that our warships be withdrawn from vicinity of Cuba and Key West as soon as armistice was published, our government replied that it would dispose of its ships as it pleased.

Mr. Sherman cabled Mr. Woodford, April 4, that Congress would probably take decisive action by the end of the week and to be ready to go to Paris in case of rupture.²³ This shows that our government was not expecting peace. On April 5, Mr. Woodford cabled the President and asked whether he would sustain the Queen and prevent hostile action by Congress should she proclaim immediate and unconditional suspension of hostilities in the island. Then he continued: "Please read this in the light of all my previous telegrams and letters. I believe this means peace, which the sober judgment of our people will approve long before next November, and which must be approved at the bar of final history."²⁴ To this Mr. Day replied that night that the President highly appreciated the Queen's desire for peace, but that he could not undertake to influence Congress beyond a discharge of his constitutional duty in placing the

²² Ibid., p. 733.

²³ Ibid., p. 733.

²⁴ Ibid., p. 735.

whole matter before them with such recommendations as he thought necessary and expedient. He said that if an armistice was offered by the Spanish government he would communicate that fact to Congress."

On April 6, the representatives of six European powers presented a joint note to the President appealing to him in the hope that further negotiations would lead to an agreement securing peace.²³ The President had intended to send his message to Congress that day, but this was not done at the request of Consul-General at Havana, for Mr. Day, in telegram to Woodford that day says: "The President's message will not be sent to Congress until next Monday to give Consul-General at Havana the time he urgently asks to insure safe departure of Americans."²⁴

Mr. Woodford wrote Mr. Sherman on April 8, "the sober sense of Spain is slowly but surely coming to the front, and a few days (if these few days can still be had) will see a crystallized, public sentiment that will sustain the present Spanish government, if that government has the immediate courage to do at once the things that are necessary for peace."²⁵ But these few days were not given, though the Spanish government did act immediately and courageously, for the die was cast when the President sent his message to Congress April, 11.

On April 9, an armistice was granted by the Spanish government, and this information Mr. Woodford at once cabled to Day.²⁶ General Blanco was directed to grant suspension of hostilities at once. By this act the Spanish government had acceded to the only request of our government which had not previously been granted. Step by step, the Spanish government had acceded to the demands of our government in the hope of obtaining peace, until she had crowned her efforts to avoid war by granting an unconditional armistice to insurgents who had not asked for it.

²³ *Ibid.*, p. 735.

²⁴ *Ibid.*, p. 745.

²⁵ *Ibid.*, p. 740.

²⁶ *Ibid.*, p. 743.

²⁷ *Ibid.*, p. 746.

This was the last thing she could do without unconditionally granting independence to Cuba.

Mr. Woodford sent word to the President, April 10, the day after the armistice was granted, that he believed final settlement could be made before August on one of the following grounds: 1. Autonomy acceptable to the insurgents themselves. 2. Cession of the island to the United States. 3. Independence of the island. He added: "I hope nothing will now be done to humiliate Spain, as I am satisfied that the present government is going, and is loyally ready to go, as fast and as far as it can."²

On the next day, April 11, McKinley sent his message to Congress, and barely mentioned the fact that Spain had proposed arbitration as to the *Maine* and had granted an armistice. Very little was said of the revocation of the reconcentrado order, nothing said of Woodford's encouragement as to early peace, his request for more time, etc., while much space was given to the portrayal of the evil effects of the concentration orders, while they were in operation.

Two days later, April 13, the House, by a vote of 324 to 19, passed a resolution authorizing the President to intervene at once to put an end to the war in Cuba. On April 16, the Senate, 67 to 21, amended the House resolution. Conference followed, and early on the morning of the 10th, (3 a. m.) the resolution, as given in earlier part of this paper, (with addition that United States did not want Cuba), was passed; in the Senate, 42 to 35; in the House, 310 to 6. The joint resolution was approved by the President on April 20. On the same day the Spanish minister at Washington asked for his passports, saying the approval of the resolution by the President made it impossible for him to stay longer. In fact the resolution was equivalent to a declaration of war. On the 21st, and before Mr. Woodford had communicated the resolution with the formal demand that Spain relinquish authority in Cuba and giving only until the 23d, at noon, for favorable reply, the Spanish minister for foreign affairs

² Ibid., p. 747.

notified him that diplomatic relations were broken," thus avoiding a fresh insult, as Señor Gullon says."

After giving somewhat in detail the efforts of the Spanish government to avoid war, it seems that we may fairly and safely conclude that had our government met the concessions and desires of Spain for peace with a firm, but conciliatory, spirit, that war could have been avoided, and yet the actual, or at least the practical, freedom of Cuba have been obtained. The letters and dispatches of Woodford to the President and State Department clearly show that he thought this not only possible, but practicable, even to the last.

Mr. Woodford says he believes that the independence of Cuba would have been obtained without war had it not been for the destruction of the *Maine*, the De Lôme letter, and the suggestion that the President had requested the Pope to tender his good offices to get Spain to grant armistice." If war would have or could have been avoided but for the three accidents or blunders to which Mr. Woodford refers, then it does appear that there is very little, if any, justification for intervention at the time, for surely no one will deny but that the Spanish proposition as to the *Maine* was the only proper one, and our State Department had already acknowledged that the affair of the De Lôme letter was settled, and had apparently approved Woodford's statement that he had accepted the explanation as to the third matter as full and sufficient."

3 blunders

" Ibid., pp. 760-767.

" Spanish Red Book, 1898, p. 138.

" This statement is made in a paper read by Mr. Woodford before the Hebrew Young People's Society of New York, March 8, 1904.

" For. Rel., 1898, p. 736.

causes for intervention

1. The *Maine*
2. self-preservation
3. economical interests
4. American lives & property
5. Humanity.

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**THE FINANCES OF
AMERICAN TRADE UNIONS**



SERIES XXIV

Nos. 4-3

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J. M. VINCENT
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THE FINANCES OF
AMERICAN TRADE UNIONS

BY
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TABLE OF CONTENTS.

PART I.

REVENUE.

	PAGE
CHAPTER I. Ordinary Revenue	9
CHAPTER II. Extraordinary Revenue	34

PART II.

EXPENDITURE.

CHAPTER I. Strike Expenditure	45
CHAPTER II. Beneficiary Expenditure	71
CHAPTER III. General Expenditure	101

PART III.

ADMINISTRATION.

CHAPTER I. Administration	123
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PREFACE.

This monograph was prepared and completed while the author was a graduate student in Political Economy at the Johns Hopkins University. It is one of a series of investigations into the various phases of American trade unionism that have engaged the members of the Economy Seminary of the Johns Hopkins University during the past four years. The study is confined almost entirely to the leading American national and international trade unions, and no attempt has been made to study the finances of local trade unions or federations.

In every stage of the work, I have received valuable advice and assistance from Prof. J. H. Hollander and Dr. George E. Barnett, of the Department of Political Economy of the Johns Hopkins University.

THE FINANCES OF AMERICAN TRADE UNIONS.

PART I. REVENUE.

CHAPTER I. ORDINARY REVENUE.

The policy of high dues and large benefits adopted for many years by British trade unions has gained favor slowly among organized workmen on this continent. The great mass of American trade unions consequently lack the centralization which follows the inauguration of an efficient system of revenue and the accumulation of reserve funds. The comparative youth of labor organizations in the United States is largely responsible for their decentralization. The oldest American national union dates back hardly more than a half century, whereas the leading British organizations now possessing large financial resources were in existence long before.

Under the system of government prevailing in most American trade unions, each local unit regulates its own membership dues and assessments, expends and invests its funds in a manner best suited to its own needs, without interference or control by the national organization. This principle of local self government, appearing even in the constitutions of the oldest national unions, arises partly from differences in race and character of the membership, but principally from the wide territory, comprising sections

differing radically in economic and industrial conditions, covered by the national trade organizations on this continent.¹

In the early period of the labor movement on this continent, previous to the formation of national unions, associations and combinations of workmen were scattered, disconnected and purely local in character. Members of the same trade in each industrial center organized independently of the workmen of other communities. There was little communication or promotion of the common interests of workmen of the same craft outside of one locality. With improvement in the means of transportation and communication and the consequent equalization of industrial conditions in different sections of the country, workmen of all localities were brought into competition with each other, and loose alliances of local unions for mutual protection and harmonious action began to be formed. From these alliances were evolved, after a slow process of growth and concentration, such powerful national and international trade associations as the International Typographical Union, the Cigar Makers' International Union, the Iron Molders' Union of North America, the International Association of Machinists and others of similar type.²

¹ Although this last consideration is of less consequence at present, owing to improved facilities of communication and transportation, it was, nevertheless, quite a factor, half or even a quarter of a century ago. Thus, Professor Cairnes, the English economist writing in 1874, considered it very doubtful whether trade unions in the United States, because of the large territory covered by their jurisdiction, could ever become sufficiently powerful to be effective throughout the entire country; see Cairnes, "Some Leading Principles of Political Economy," p. 230.

² The dates of the formation of the earlier national unions are as follows:

International Typographical Union of North America.....	1850
Tack Makers' Protective Union of the United States and Canada	1854
Stone Cutters' Union	1854
Hat Finishers' International Association of North America	1854
Iron Molders' Union of North America.....	1859
Grand International Brotherhood of Locomotive Engineers....	1863
Cigar Makers' International Union of America.....	1864
Bricklayers' and Masons' International Union of America.....	1865

The loose character of these early associations did not require large financial resources. The local bodies composing them generally retained for themselves almost complete independence and authority. The only functions transferred to the national organizations were the supervision of the "travelling card"³ and the collection of voluntary contributions for the aid of local unions in conducting strikes. Thus, the International Typographical Union, the first trade union of national scope in America, for more than two decades after its formation in 1850, was a mere alliance of local bodies, held together by the common recognition of the "union card" and the annual meeting of local delegates convened for the purpose of formulating trade rules. The early structure of the Iron Molders' Union was of a similar decentralized character, the collection of voluntary contributions for the aid of local unions on strike, being the only additional function exercised by the national organization. In other early organizations, the sphere of action of the national union, as distinct from that of the locals composing it, was likewise confined to a few supervisory functions.

Limited thus, both in activity and in authority, the early national unions were granted revenues of an essentially meagre character. In the International Typographical Union, for example, the entire income during the first ten years, consisted of a small portion, never exceeding five per cent. of the local receipts. This tax was paid annually by each local as a fee for the privilege of seating delegates in the general convention.⁴ The early revenue provisions of the Iron Molders' Union were similar, the first consti-

Brotherhood of Locomotive Firemen	1873
International Union of Horseshoers of the United States and Canada	1875
Amalgamated Association of Iron and Steel Workers.....	1876
Window Glass Blowers' Association	1877
Granite Cutters' National Union.....	1877

³ By means of this "travelling" or "union card" a member moving from the jurisdiction of one local to that of another, was entitled to all the privileges of membership therein.

⁴ See Proceedings of the Seventh Annual Session, Appendix, p. 35.

tution drafted in 1859 merely requiring the payment of a yearly contribution of ten dollars by each local, and a further sum of ten dollars for each delegate to which the locals were entitled.⁵ During the formative periods of the Cigar Makers' International Union, the Bricklayers' and Masons' Union and the International Union of Journeymen Horse-shoers, the funds collected for general use rarely amounted in any instance to more than a thousand dollars a year.⁶

Only after the national unions in the process of their development had extended their functions and had enlarged their powers were larger revenues granted for their support. The process of centralization in some organizations has been more rapid than in others. Consequently some have experienced rapid growth in fiscal resources. The relation between the growth of revenue and the development of structure is of the highest importance to an understanding of the history of American trade unions. It is principally to improvement in financial resources and fiscal organization that the best constituted and most progressive unions owe their present stability and power. In developing their systems of finance, American national trade unions, with but few exceptions, have pursued a policy differing from that of the older British organizations. When the English local unions joined together into national associations "it was generally assumed that any cash in the possession of any branch was available for the needs of any other branch"⁷ and accordingly no provision was made for the maintenance of central funds for common use. This system of "community of funds," however, found no place in the early constitutions of American national unions and

⁵ This was replaced the next year by an annual tax of five cents per member, paid from the funds of the local unions; see Iron Molders, *Journal*, November, 1888, p. 2, and December, 1888, p. 2.

⁶ Thus the receipts of the Cigar Makers' National Union during the first year of its existence (1865) amounted to but \$191.05, and the year following to \$531.30; see *Journal and Program of the Cigar Makers' International Union, Twentieth Session (Chicago)*, pp. 47, 48.

⁷ Webb, *Industrial Democracy*, new edition, p. 91.

has always been strongly opposed by the rank and file of the membership. The American national unions at their very inception established central treasuries, distinct from the treasuries of their local branches and for which a fixed revenue was generally provided.

This method of supporting a central fund for the use of the general organization known among the trade unionists as the "per capita tax system" proved to be the most convenient fiscal system that could be devised under the prevailing federated type of American trade-union structure. Unlike the British system of "community of funds," it neither entails a system of uniform dues and benefits among the local branches, nor does it infringe upon the freedom of the locals in the regulation of local finances. The principle of local autonomy is thus observed, and at the same time, since the locals can apportion their funds to suit their own peculiar needs, the difficulties arising from the adjustment of local and national incomes are obviated.

The British national unions, enforcing systems of uniform dues, fees and other membership charges and having full authority to call upon the funds in the possession of their local branches when in need of revenue, do not find it necessary to levy a tax for the maintenance of a central fund for general use. For example, in the Amalgamated Association of Carpenters and Joiners (a British organization having branches in the United States since 1863) all local receipts are held "in trust" by the local branches. Each branch reports quarterly, or oftener if required, to the secretary of the division to which it belongs. Should the division office, or even the central headquarters at Manchester, England, require money for current expenses or to aid a local branch in financial distress, the secretary thereof is empowered to draw upon the funds of one or more branches that he may select for the purpose. In every instance the order must be obeyed, regardless of the will of the subordinate organizations concerned. Thus, under this arrangement it may happen that a branch located in

New York will be ordered to forward money to a sister branch in Liverpool, England, which is short of funds, while another branch in San Francisco, by reason of its good financial condition, may be required to remit a large sum to headquarters to meet a deficiency there for current expenses. Under a centralized financial organization of this kind the funds in the possession of the local units composing a national union continually undergo a process of equalization, thereby causing each to share alike in the losses and gains of the others. There is thus involved a direct conflict with the principle of local autonomy, a condition which explains the unpopularity of the "nationalized"* system of finance among the trade unions of this country.

The most noteworthy instance of the successful adoption of this system of "community of funds" or "nationalization and equalization system" as it is called, is that of the Cigar Makers' International Union in 1879. Previous thereto, this union, as far as its finances were concerned, was no better off than other national labor organizations. The meagre income received from the small per capita tax levied on the locals was barely sufficient to pay the limited expenses of the general office consisting then largely of items for printing and postage. No steps were taken to accumulate reserve funds, and in consequence financial assistance for strikes had to come from special assessments levied upon the membership. The beneficiary features undertaken by the international union were so weak in character and so laxly conducted that they were soon abandoned. The entire income of the organization rarely amounted to a hundred dollars per month. Most of the locals were usually in arrears for their per capita tax, and no adequate means existed to enforce collection. In 1877 when the union was reduced to but seventeen locals and seemed to be on the verge of collapse, Mr. Adolph Strasser, of the New York local, was

* The British "community of funds" system is thus designated in contradistinction to the American independent treasury system.

elected its president. Through his efforts, the present financial system was inaugurated two years later.

The basis of this new system, drawn in almost every particular from the British unions, was the institution of uniform dues and initiation fees throughout the entire organization and a periodic equalization of the funds of the local unions. All revenue regularly accruing to the locals is thus regarded as the property of the International Union and is simply held in trust by the former. The immediate effect of the system was to do away with the independent treasuries formerly maintained by the locals. It also resulted ultimately in the abolition of the per capita tax levied for meeting expenses of the central office. As in the Amalgamated Association of Carpenters and Joiners, the international president of the Cigarmakers may, with the consent of the executive board of the union, draw upon the funds in such locals as he may select, to meet the expenditures incurred in the administration of the general organization. No local can refuse such financial assistance when ordered by the international officers. Neither can any local union, because of these drafts upon its income, enjoy for any length of time a financial advantage over the others. By a process of equalization carried out annually, each shares alike in the fortunes and misfortunes of the others.

The successful working of this system requires, necessarily, a limitation upon expenditures for local purposes. This limitation varies according to the number of members composing each local union. Thus, unions having a membership of less than thirty may expend as much as thirty per cent. of their gross receipts for local purposes, while those whose membership ranges from thirty to fifty and from fifty upwards are limited to twenty-five and fifteen per cent respectively.⁹ If a local union happens to spend more than its legitimate portion or draws upon the reserve fund in its possession without official sanction, it must assess

⁹ Constitution of the Cigar Makers' International Union (1896), sec. 171.

its membership to make up the deficiency. Failure to do so renders it liable to suspension from the international organization.

As may readily be inferred, the system also requires a thorough and constant supervision over the financial officers of the local unions and frequent examination into their accounts. Provision was early made that the secretaries of the locals should report all fiscal transactions, at regular intervals, to the international headquarters and that accounts with the latter should be traced by a system of stamp receipts. Further provisions for audit were later adopted. In 1883 the employment of examiners known as "financiers" was authorized, whose duty it is to visit the various locals to inspect their account.¹⁰ With these safeguards, notwithstanding the large sums entrusted to the local officials, very little is lost by misappropriation or fraud.¹¹

The advantages of the Cigar Makers' financial system over the prevailing independent local treasury system of American national unions are (1) the enhancement of the financial power of the general organization through the control of the local revenues and the local funds; (2) the support that is given to the smaller and weaker locals by permitting them to share the financial resources of the larger and better equipped unions; and (3) the promotion of trade unity in the organization by direct participation of each local in the struggles and misfortune of the others.

It is evident that a trade union with a financial system, which limits its income to a fixed periodic tax and which is deprived of the power of drawing freely upon the resources of its constituent bodies for the defense of members in every locality and throughout every branch of the trade, cannot acquire the strength and stability of one that has full command over all reserve funds held under its juris-

¹⁰ These officers report their findings to the international president, who publishes them in the official journal of the union.

¹¹ For a fuller account of the fiscal administration of the Cigar Makers' Union, see pp. 146, 147.

diction. Under the latter arrangement, the combined financial strength of all branches can be easily concentrated in the defense of the very weakest of its number, whereas under the independent local treasury system, the strength of the national trade organization is practically limited by the size of the central fund, regardless of the accumulated reserves in the coffers of local branches. Thus, in 1897, when the International Association of Machinists was considering the adoption of the Cigar Makers' system of finance, attention was called to the fact that the total sum at the command of the general organization amounted to but \$4732, whereas the funds held independently by the locals aggregated more than \$45,000. If pressed for additional resources to aid a local lodge on strike or to conduct an aggressive movement, the International Association, instead of drawing directly on the available funds in the possession of the locals, would be compelled either to appeal for voluntary contributions or to await the slow returns of a special assessment levy.¹² The financial situation of the International Association of Machinists in 1897 is typical of a large number of American national unions in which the general revenue is insufficient to sustain weaker locals during conflicts.

It is not alone for purposes of defense, however, that the weaker locals of a national trade organization require the financial aid of the stronger. In almost every union are found a number of local lodges, which either because of small membership or adverse circumstances¹³ are unable to maintain themselves without outside assistance. Where the independent local treasury system of finance prevails, these lodges are often permitted to disband and their members to join the ranks of the non-unionists. Under the "nationalization and equalization" financial system, however, the weaker locals are aided directly from the funds of the stronger, and a wider control over the labor supply thus assured. Fur-

¹² See *Machinists' Journal*, vol. 1, p. 428; also Webb, *Industrial Democracy* (new edition), p. 92.

¹³ Such, for instance, as the absconding of a local officer with union funds.

thermore, each individual member, whether the local to which he is attached has but one dollar or one thousand dollars in its possession can claim an equal share in the wealth of the organization at large, and is entitled to the full benefits thereof.¹⁴ Hence the interests of the members become centred in the welfare of the whole organization and not in their respective locals. A certain craft unity results, and the spirit of local selfishness, to some extent a disintegrating force in American trade unionism, is broken down.

Despite its many advantages, however, the "nationalized" financial system of the Cigar Makers' International Union has been adopted by but three other national trade unions on this continent: the German-American Typographia, organized in 1873, and now a branch of the International Typographical Union; the Piano and Organ Workers' Union, organized in 1898; and the United Association of Plumbers and Gas Fitters, which adopted the plan in 1902.¹⁵ The local units composing the majority of American unions still lack the solidarity essential to the introduction of uniform dues and benefits and equalized funds. A considerable number of the national unions of the present day are based on an industry rather than a common craft and accordingly comprise locals whose members differ widely as to occupation, skill and earning capacity.¹⁶ Thus, in the United Garment

¹⁴ The "nationalized" financial system of the Cigar Makers is thus well adapted to the payment of friendly benefits in that it prevents a member losing his right to the benefits when moving from one local to another. On this point see Proceedings of the Sixth General Convention of the United Brotherhood of Carpenters and Joiners, p. 23.

¹⁵ The Iron Molders' Union, though having a system of uniform dues and benefits and equalization of a national sick-benefit fund, held in trust by the locals, still adheres to the per capita tax method of raising revenue for the support of the general office.

¹⁶ Conspicuous examples of such unions are the United Brewery Workmen, the United Garment Makers, the Amalgamated Association of Meat Cutters and Butcher Workmen, the United Mine Workers and the Amalgamated Association of Iron, Steel and Tin Workers. Previous to the secession of the pressmen and feeders' unions in 1889, the International Typographical Union, comprising all employees in the printing trades, was likewise an organization of this character.

Workers of America, we find local unions composed entirely of girl operatives on shirts and overalls, others of pressers, others of pants makers, others of coat makers and still others of highly skilled clothing cutters and designers. These several locals, although all within the jurisdiction of the United Garment Workers, differ widely among themselves, having distinct membership dues, assessments and initiation fees. In organizations of this type, a consolidated financial system with uniform dues and benefits for all classes of members is manifestly undesirable and impracticable. Locals composed of highly skilled workmen, in which the scale of membership payments are highest, are naturally unwilling to share their funds equally with locals having low dues, composed of poorly paid, unskilled artisans. Moreover, in industrial unions such as the Garment Workers, the revenues levied for the support of the national fund (i. e., the per capita tax) are limited to what can be paid by the local lodges having the lowest membership dues and the smallest reserve funds. In other words, the weakest link in the chain of local unions determines the financial strength of the general organization.

The peculiar structure of the American national unions, therefore, accounts largely for the fact that but very few have succeeded in instituting a "community of funds" policy. The adoption of the system has, however, been unsuccessfully agitated by the United Brotherhood of Carpenters, the International Association of Machinists, the International Typographical Union and by several others. The United Association of Plumbers and Gas Fitters, after a discussion by the membership during a period of five years, finally accomplished a financial reorganization on this plan in 1902, not without strong opposition, however, from the large locals under its jurisdiction.¹⁷ The desire of such

¹⁷ The introduction of the system caused the largest local, that of New York, to withdraw altogether from the national organization; see the Report of the General President to the Fourteenth Convention of the United Association of Journeymen Plumbers, etc., *Plumbers' Journal*, October, 1904, p. 29.

large locals especially in cities where high wages prevail, to store up funds for their own use in time of emergency rather than to share them with the smaller and weaker unions, leads them to favor the separate local treasury system of finance rather than the "community of funds" policy.¹⁸

Several American national trade unions which possess a centralized or consolidated type of structure with systems of uniform dues and benefits throughout their jurisdiction, do not follow the "community of funds" system, but instead demand from their locals a fixed share of gross receipts. The Granite Cutters' Union is an extreme example of this policy. Since the members composing this specialized craft are generally employed in a single locality only during short periods and consequently must move about from place to place, no strong local organizations have developed among them. The national union, therefore, forms the only permanent tie that binds the members together, and accordingly, all financial power and authority are concentrated there. The constitution requires that the regular income of the locals, other than the portion actually used for current expenses, such as hall rent, postage, etc., be forwarded to the headquarters of the national union.¹⁹ The Boot and Shoe Workers' Union, which in spite of its industrial form of organization, succeeded in 1899 in inaugurating a system of uniform dues and benefits, follows a somewhat similar plan, two thirds of the local receipts

¹⁸ It must be remembered that the current expenses of the large locals is much less proportionately than of the smaller locals, since in the latter only a few members bear the cost, whereas in the former it is spread over a large number. This fact is recognized by the Cigar Makers. Locals having a membership of less than thirty are entitled to thirty per cent of the local receipts of current expenses, whereas, those having more than fifty members are only allowed fifteen per cent; see Constitution of the Cigar Makers' International Union, sec. 171.

¹⁹ This does not preclude the locals from raising funds by special assessment for special local purposes; see Constitution of the Granite Cutters' International Association (1897), sec. 130.

being allotted to the use of the general organization.²⁰ The general treasury of the Amalgamated Association of Leather Workers on Horse Goods is supported by a similar method. Here, however, the portion of gross receipts demanded of each local varies according to the membership. From a local having fifteen members or less, fifty per cent is required; from one whose membership ranges from sixteen to twenty, fifty-five per cent, and increasing in the same scale, a maximum of eighty per cent is required of all locals having a membership of more than fifty-six.²¹

We can easily see that to work successfully, this fiscal arrangement not only requires uniformity of membership dues and benefits in all locals, as with the "community of funds" system, but necessitates, as has already been intimated, approximate uniformity in the quality, skill and earnings of the membership.²² It has therefore been adopted by few unions, the great majority adhering to the plan of maintaining a central fund by taxing the members of each local organization a fixed per capita amount at regular monthly or quarterly intervals.

We have already seen that the form of the revenue charge differed somewhat in the oldest organizations. In the Typographical Union and in the Journeymen Horseshoers, it consisted of a small percentage of the receipts of local unions; while in the Iron Molders, a fixed sum was levied upon each local, proportioned to the number of delegates that each was entitled to send to the general convention. Both of these methods, however, proved unsatisfactory, and were early replaced by a periodic per capita tax, levied theoretically upon the individual members, but paid directly out of the funds of the local unions.

²⁰ Constitution of the Boot and Shoe Workers' Union (1902), sec. 59.

²¹ Constitution, United Brotherhood of Leather Workers on Horse Goods, amended 1902, Art. X, sec. 3.

²² The Boot and Shoe Workers, owing to the extensive introduction of machinery in the industry, are fast approaching this condition.

The per capita tax exacted by the national unions of their local branches is determined not so much by the earnings of the members or even by the dues paid to the local branches, as by the relative degree of activity and the variety of functions exercised by the central office. These characteristics themselves are in a large measure dependent upon the structure of the general organization. In unions of a centralized type, based on a particular craft rather than upon an industry, the principal functions are exercised largely by the general officers and consequently less freedom of action or initiative is allowed the local unions. In these a large part of the expenditures, that would otherwise be borne by the locals, is paid out of the central funds, thus, necessarily requiring a larger revenue for the general union than if the greater part of the organized activities were conducted independently by the local branches at their own expense. We find, therefore, that in the better developed and more centralized unions such as the Glass Bottle Blowers' Association, the Granite Cutters' Union, the Boot and Shoe Workers' Union and the Iron Molders' Union, the bulk of local receipts is forwarded to the central treasury and only a minor portion is reserved by the locals for local purposes. In the Iron Molders' Union, for instance, the regular membership dues are twenty-five cents per week. Of this amount seven cents is retained by the local union for its own use and the balance is credited to the funds maintained by the national organization. Similarly, in the Boot and Shoe Workers' Union, from a uniform weekly due of twenty-five cents, but one third is allowed to the local and the remainder is forwarded to the central treasury at the general headquarters. Both of these organizations, however, in return grant from a central fund a regular weekly allowance to members on strike, pay out benefits in cases of sickness, death or total disability, and in addition conduct other lines of activity such as "union-stamp" agitation, a national system of collective bargaining and the maintenance of "organizers" for purposes of trade-union propaganda.

In unions whose functions are fewer and which neither guarantee to individual members financial assistance during strikes nor pay out beneficiary relief, the revenue allotted to the central fund is generally of a meagre character. Thus, the monthly tax of the National Bricklayers' Alliance and the Longshoremen and Transport Workers' International Association is but five cents per member, while that of the United Mine Workers and the International Union of Steam Engineers is but ten cents per member. In organizations such as these, the practice is to have the local branches support their striking members from their own funds and to conduct independent systems of benevolent relief.²³ It is for this reason that the portion of local dues allotted the central fund is relatively smaller than in the more highly centralized unions. This point is well illustrated by the table in the appendix showing the yearly per capita income of fifteen representative national unions, together with the functions and activities undertaken by them, as in force on April 1, 1905.

Although the common method of raising revenue is the imposition of a fixed periodic per capita tax varying in amount according to the functions and activities of the organization, a few unions, not enumerated in the table given in the appendix, demand from members a percentage of their earnings. Thus, the Glass Bottle Blowers' Association and the United Hatters of America assess each member working at the trade one per cent of his wages for the support of a central fund.²⁴ The Coal Hoisting Engineers also follow this plan.²⁵ The Flint Glass Workers' Union, the Amalgamated Association of Iron, Steel and Tin Workers and the National Brotherhood of Operative Potters employ

²³ This point is more fully discussed in the chapters treating of strike and beneficiary expenditures.

²⁴ Constitution and By-Laws of the Glass Bottle Blowers' Association (1904), sec. 59, p. 25. The rate is two per cent until a sum of \$250,000 is accumulated.

²⁵ Constitution of the National Brotherhood of Coal Hoisting Engineers (1902), Art. VI, sec. 3.

the wage assessment method for maintaining strike funds, but levy a fixed per capita tax to cover ordinary administrative expenses. Although the wage assessment method of taxation is undoubtedly the most just and equitable, in that it adjusts membership dues to earning capacity, it has been only applied in trades where for each grade of work a system of uniform wages and piece work prices prevails and where there is an appreciable disparity in the earnings of different classes of members. Among the Glass Bottle Blowers and Flint Glass Workers, for instance, an elaborate scale of uniform piece work prices for the entire trade is drawn up each year by the general organization and no departure therefrom is permitted by any local branch or member thereof. Similarly, in the United Hatters, although each local is permitted to draw up a piece-work price list, with the sanction of the national executive officers, no other form of wage payment is permitted in the organization. The piece-work wage system prevails also in the Brotherhood of Potters and in the Iron, Steel and Tin Workers, and considerable disparities exist in the earnings of the individual members.

Another condition essential to the successful working of the wage assessment plan is an effective means of determining the weekly or monthly earnings of the individual members. The members must either work together in shops or factories where a collector can be kept informed of the earnings of each separately or free access must be had to the wage lists of the employers. The method of the United Hatters is to employ in every manufacturing plant under their jurisdiction a shop steward, whose duty it is to collect the one per cent. wage assessment and who receives a commission for his services.²⁶ The Glass Bottle Blowers' Association and the Flint Glass Workers' Union likewise provide for the appointment of a collector or a factory committee

²⁶ Constitution and By-Laws of the United Hatters of America. (1900), p. 19.

whose purpose is to prevent members evading the full share of assessments due the union.²⁷

The Bricklayers' and Masons' Union up to within the last year has followed the plan of adjusting the amount of the per capita tax levied upon the subordinate lodges in accordance with a yearly budget, compiled at each annual convention by a "Ways and Means Committee." This method appears to have been more generally practiced in former years than at present. It was employed for several years by the Glass Bottle Blowers' Association to cover general administrative expenditures and it was also used by the Pattern Makers' League prior to the adoption of beneficiary features by that body. It is still used by the Iron, Steel and Tin Workers and the Flint Glass Workers' Union in providing revenue for general administrative purposes. The great objection to the plan is that it places the organization on a "hand to mouth" basis, thus limiting the activities and functions of the general officials, and preventing the accumulation of surplus funds.²⁸ The officials of the Bricklayers' and Masons' Union have often been heavily handicapped in the performance of their duties owing to the lack of available funds.

The movement towards higher dues and centralized financial organization even in the national unions that have advanced farthest along these lines has been a slow and difficult process. The initial step in the movement was taken by the Cigar Makers' International Union in 1879 when the reorganization of its financial system occurred and a system of beneficiary relief was inaugurated. In consequence thereof, the membership dues were gradually raised with the addition of new forms of benevolent relief until at the

²⁷ Constitution and By-Laws of the Glass Bottle Blowers' Association (1904), pp. 21, 22. See also Constitution of the American Flint Glass Workers' Union (1904), Art. XI, sec. 2.

²⁸ See the Annual Report of the President and Secretary of the Bricklayers' and Masons' International Union for the term ending December 1, 1901, p. 280; also semi-annual report for term ending December 1, 1904, p. 7.

present time each member pays to the organization the sum of thirty cents per week besides extra assessments that are levied from time to time for special purposes. Through wise and economical management and in spite of numerous and costly strikes and an increasing expenditure for beneficiary purposes, a surplus reserve amounting on January 1, 1904, to over one half million dollars has been accumulated, thus giving the Cigar Makers' Union a high degree of financial power and stability.

The progress of the Iron Molders' Union toward a policy of higher dues and larger benefits has been very similar to that of the Cigar Makers, though the original policy of independent local treasuries maintained by the local unions has persisted. Side by side with it, nevertheless, a central financial control has been developed. Thus in 1872 the revenue allotted to the central fund of the union was raised from fifty cents quarterly to twenty-five cents per month in consequence of the assumption of greater responsibility for the support of local strikes. It was not until 1895, however, with the inauguration of a sick benefit feature and the institution of a system of uniform dues throughout the organization that the Iron Molders' Union "took the step that placed it in the foremost ranks of high dues trade unions."²⁰ At present with dues amounting to twenty-five cents per week per member and several minor and incidental charges, the union has met its obligations promptly, has maintained itself intact in the face of the open hostility of employers' associations, and in addition has been paying regular benefits to members in cases of sickness, death and total disability.

In unions of more recent origin than the Cigar Makers or the Iron Molders, progress towards systems of high dues and large benefits has been more rapid, though not without serious difficulty and opposition. This is well illustrated by the experience of the Boot and Shoe Workers' Union in advancing from a weak financial basis to a strong centralized

²⁰ Proceedings of the Twenty-first Session of the Iron Molders' Union, p. 44.

financial organization with high dues and benefits. At the Boston convention of 1895, which united into one organization the various workers in the shoe manufacturing industry, the question of dues formed the bone of contention. "The advocates of high dues contended that the organization could have no successful future on a basis of cheap dues, while the delegates who advocated low dues contended that if the high dues were adopted, amalgamation would be defeated."⁸⁰ The advocates of low dues prevailed at the time and membership payments were fixed at the small sum of ten cents per week, with no provision for benefits.

The futility of this "cheap dues policy" in the Boot and Shoe Workers' Union was soon made manifest. During the years between 1896 and 1898, the organization was seriously weakened by several large and unsuccessful strikes, causing a steady decline in membership and a loss of confidence. This condition of affairs gave the advocates of high dues an opportunity to again endeavor to establish the union on a sound financial basis. They prepared a draft of a new constitution, containing provisions for high dues and benefits, and presented it to the convention of 1899. After considerable opposition, this constitution was finally adopted without amendment. As a result, a centralized financial control, hardly inferior to that of the Cigar Makers or the Granite Cutters, was inaugurated. So fearful, however, were the high dues advocates of a reversion to the former policy, that a provision was inserted in the new constitution making it "forever unconstitutional to seek to reduce the amount of dues provided."⁸¹

Another instance of a similar rapid advance from a weak financial basis to a centralized financial system, with uniform dues and benefits, is found in the history of the United Association of Journeymen Plumbers. Organized in 1889 under the prevalent low per capita tax system, this organiza-

⁸⁰ Boot and Shoe Workers' Official Journal, June, 1900, p. 7.

⁸¹ Constitution of the Boot and Shoe Workers' Union (1902), sec. 53.

tion lived through the industrial crisis of 1893 with the greatest difficulty. For several years thereafter, its monthly income continued limited to the rate of five cents per member and no progress was possible.²² Realizing that the national union could be maintained only by augmenting its income, the convention of 1899 in addition to raising the amount of the per capita tax, required each local to impose monthly dues of twenty-five cents upon each member. A provision was likewise inserted in the national constitution requiring the locals to reserve in their treasuries, subject to the draft of the general officers, a sum equal to one dollar per member. Other measures tending to augment the fiscal resources of the union were later adopted, leading finally in 1902 to the inauguration of the "nationalization and equalization" system of finance, identical with that of the Cigar Makers' Union.

The progress which other organizations have made in enlarging their revenues and in accumulating effective reserves, does not differ materially from that of the unions just reviewed. In addition to the influence of homogeneity in membership, the most important factor in producing centralization in finance is the extent to which the workmen in the trade located in different localities compete with each other. Thus, in the Cigar Makers, the Iron Molders, the Glass Bottle Blowers and most other organizations that have acquired a sound financial basis and have come to possess efficient reserves, the members of one local branch regardless of locality compete directly as to wages and conditions of employment, with members of every other local branch; whereas in the organization of the building trades, and still to some extent in the printing trades, each locality constitutes a labor market, thus rendering the membership of each local union comparatively free from outside competition. Where this latter condition prevails the endeavors of

²² In 1897 the General Secretary reported that "although the organization had been in existence eight years it found itself without funds"; see Proceedings of the Seventh Convention, p. 6.

the local unions have been to use their funds for maintaining high wages and good conditions in their respective localities rather than throughout the trade.

The financial history of the Bricklayers' and Masons' Union illustrates well the decentralizing effect of non-competition of members working in different localities. Since the local branches of this organization have always had the privilege of fixing the scale of wages and hours of labor for their own members, without much regard to the conditions prevailing elsewhere, no strong feeling of unity or common trade interests grew up among them. Consequently, the national union, although organized as far back as 1865, has made but slight progress towards centralized financial control. For a period of thirty-five years it was one of the cheapest and poorest trade organizations in the world, the ordinary revenue never exceeding twenty-five cents per member per year, or less than three cents per month per member. In spite of the fact that several of the subordinate branches in the large cities possessed well filled treasuries, the national union was often without sufficient funds to pay the salaries of the general officers.³³ Within the last year, however, the Bricklayers' and Masons' International Union has realized the weakness of this precarious financial basis, and has placed itself on a financial footing somewhat similar to that of other national organizations.³⁴

In spite of the steady advance towards centralization of finances and the concentration of authority in the national trade unions of the United States, "the question of high dues, large treasuries in the unions and benefits to the members is one which is not generally understood or intro-

³³ Annual Report of the President and Secretary of the Bricklayers' and Masons' International Union for the term ending December 1, 1890, pp. 48-49; also for term ending December 1, 1901, p. 280.

³⁴ The per capita tax was increased to \$1.50 per year, more than treble the sum levied previously; see Semi-Annual Report of the President and Secretary of the Bricklayers' and Masons' International Union, June 30, 1904, p. 6.

duced.”³⁵ Many of the unions are too recently organized to have developed sound systems of revenue or large financial resources, the attainment of which requires both a long period of time and a constant training of the membership in the practice of paying high dues. Men who must labor all day at their trades are not apt to give serious attention to the financial affairs of their trade organization, especially when, as is commonly the case in unions of loosely federated structure, such questions do not seem to directly affect them. Here the peculiar interest of the member is centered in his own local, and matters of national concern are of little moment to him.

The value of high dues and large treasury funds as a means of promoting the strength and stability of trade-union organization is fully recognized, however, by the leading men identified with the interests of organized labor. These urge insistently the importance of the question upon the rank and file of union workmen.³⁶ It is doubtful whether mere argument and persuasion will accomplish the desired result, and establish the American trade unions upon the same financial footing as the older British organizations, which possess large accumulated reserve funds amounting to millions of dollars and grant relief to members against casualties, as well as protection of their trade privileges. The average member of a labor organization either does not understand or at least ignores the value of treasury funds as a factor in the progress of trade unionism. He likewise fails to comprehend that an apparently large sum of money, accumulated by a national union, allows but an insignificant

³⁵ See Report of President Samuel Gompers to the Twentieth Annual Convention of the American Federation of Labor, p. 12.

³⁶ See Report of President Samuel Gompers, in Proceedings of the Twenty-first Convention of the American Federation of Labor, p. 15, and *American Federationist*, December, 1899, p. 248; also *Official Journal of the Brotherhood of Painters, Decorators and Paper Hangers*, February, 1904, containing symposium of opinions from prominent labor officials on trade union finances.

amount to each when apportioned among the entire membership. More potent means than the mere statement of figures must be employed before workmen will consent to sacrifice a larger share of their earnings to their national trade organization. Only when their own immediate interests are involved or when the advantages accruing from large financial resources are openly manifest will they agree to a policy of high dues and the accumulation of reserve funds.

In a large number of organizations, nevertheless, increased financial power seems inevitable both because of the growing unity of craft interests through the growing competition of different localities, and also because of the increasing tendency of employers and manufacturers to combine in opposition to trade unions. It is this latest form of industrial combination that is bound to impress upon the union workmen the conviction that their organizations must be equipped as militant organizations which cannot thrive by faith alone.

But the growing uniformity in industrial conditions throughout the various sections of the country is undoubtedly the greatest influence tending toward the centralization of larger financial powers in the national trade organizations. In spite of the fact that the principle of local autonomy still characterizes the structure of American labor unions, increasing effort is devoted to having equal work, when done under like conditions, receive equal pay regardless of locality or situation. This requires uniformity in wages and hours of labor throughout each competitive district, and to be enforced strictly, this in turn necessarily requires an augmentation of the financial resources of the national organization.

Such incidental receipts as charter and initiation fees, fines, and the income from the sale of stationery and supplies, require but brief consideration. The proceeds from these sources are of comparatively small importance, and in most cases are offset by extra expenditures. Thus, the

fee for charters received from new local unions is, in many instances, merely sufficient to cover the bonus paid to the organizer. Moreover, except in the newly organized unions, relatively few new charters are granted.⁸⁷

The same, however, cannot be said of the revenue from initiation fees. Although not levied primarily for purposes of revenue, the income derived therefrom, often makes up a considerable item in both local and national organizations, especially where growth in membership is rapid or where the personnel is constantly changing. In the great majority of American unions, the regulations regarding the amount of the initiation fee is left entirely in the hands of the local branches. About a third of the organizations fix a minimum, and a few (the Journeymen Horseshoers, the Bricklayers and Masons, and the Granite Cutters) specify the maximum amount that may be charged. While the motive for thus placing a maximum charge is in every case to prevent the fee from being fixed at a prohibitive figure, the purpose of the minimum is different in different unions. In some it is designed to discourage members from freely entering and withdrawing from the local organizations at their convenience; while in others the main object is simply to allow a portion of the fee to go into the central treasury. In such national unions as pay out strike and insurance benefits, a share of the local initiation fee has been found a convenient means of supplementing the regular revenues devoted to these purposes.

The fines that are imposed and collected by trade unions do not materially add to their income, even where levied for trivial offenses. The difficulty of enforcement and collection where the fine is heavy, and the common neglect where the fine is slight, renders them unreliable as a source of revenue. Furthermore, since these fines are generally paid

⁸⁷ The amount of the charter fee varies in the different organizations from five to twenty-five dollars.

into the local treasuries, the national unions do not benefit materially from them.³⁸

³⁸ Several of the national unions levy fines to enforce discipline, but the returns therefrom are, in every instance, slight. Thus, in the Glass Bottle Blowers' Association out of a total income of \$274,545.97, during the year ending July 1, 1903, the receipts from national fines were \$1,585.70. See Proceedings of the Twenty-seventh Annual Session of the Glass Bottle Blowers' Association, p. 98.

CHAPTER II.

EXTRAORDINARY REVENUE.

In the foregoing discussion of the revenue of the national trade unions, reference to special provisions for strikes and lockouts has been purposely avoided in order to allow a separate treatment of this important topic. Since the power to wage war successfully depends as much upon fiscal resources as upon numerical strength, labor organizations that are protective in purpose must be prepared to face financial emergencies of this kind. A numerical strength sufficient to give the union control over the marginal labor supply in the particular trade or industry to which its members are devoted is an element essential to its progress, if not to its very existence. Through such control it is enabled by means of a strike to inflict a loss upon invested capital, which, if long continued, will result in concession to the union's demand. But, in order to make the loss continuous, the union, in addition to numerical strength, must have at its command sufficient resources to sustain that portion of its membership that withdraws from active employment during the conflict. Unless strikers are supplied with the bare necessities of life during their idleness, there is imminent danger of yielding to the employer's terms. Consequently, the "sinews of war," as well as an efficient control of the labor supply, are essential to any labor organization that hopes to gain advantage for its members through the instrumentality of the strike.

This strategic importance of reserve funds has been largely neglected by organized workmen on this continent, and comparatively few unions possess really effective reserves. The low weekly or monthly dues paid by members to the local unions and the proportionately meagre revenues allotted to the treasuries of the national unions render it exceedingly difficult for the latter to meet their obligations promptly and

at the same time to satisfy the heavy demands on their resources caused by strikes and lockouts. To this lack of financial preparation for conflicts is largely due the element of instability characteristic of American trade unions. The progress of several of the older and more highly centralized unions in the adoption of high membership dues and the accumulation of reserve funds has undoubtedly placed them on a firm financial basis, but the great majority of American labor organizations are still struggling to build up reserve funds which will enable them to engage successfully in protracted and expensive strikes.

In the formative period of national trade unions little opportunity was afforded for creating permanent defense funds. Since the national unions were limited in function merely to the enactment of uniform rules and regulations governing the craft and the supervision of the "travelling card," they were not expected to participate directly in the defense of the local unions. The local unions, having fought their own battles independently, the feeling persisted that strikes were local affairs to be supported from local resources. The treasuries of the national unions were thus expected to render assistance to the strikers only when the funds of the striking local were exhausted or when the principles involved in the conflict directly affected the welfare of the trade as a whole. We find, therefore, that during the early history of the older national unions¹ and in many of those more recently organized, no effective measures were taken to accumulate central reserve funds for defense purposes.

The Knights of Labor seems to have been the first American labor organization of national scope that attempted to accumulate a central fund for general defensive purposes. The First Assembly at Pittsburg in 1878 made provision for the accumulation of an "Assistance Fund" in each of the

¹I. e., the International Typographical Union, the Cigar Makers' International Union, the Iron Molders' Union, the International Union of Bricklayers and Masons, etc.

local assemblies by directing that five cents per member per month be set aside for that purpose.² Three years later, owing to the neglect of the locals to carry out this provision faithfully, the "Fund" was transferred to the headquarters of the General Assembly, and each local was required to contribute thereto, fifteen cents per member, quarterly. Although originally designed for co-operative rather than for strike purposes, this "Assistance Fund" came to be regarded by the membership as a defense fund, and was so employed. The demands on the Fund soon became so heavy that sufficient revenue could not be collected for its support. Accordingly it was abolished altogether in 1885, and thereafter local strikes were aided by special assessments or by voluntary contributions received through sympathetic appeals to the membership.³ These methods failed to bring in large returns, and the assistance granted by the Knights of Labor was generally insufficient to prevent the defeat of the strikers, resulting in a decline in the influence of the organization.

During the decade between 1875 and 1885, the Cigar Makers' International Union and the Granite Cutters' Association appear to have been the only national trade unions that were paying out strike benefits from a central fund. The Iron Molders' Union, though at that time considered one of the best organized and most aggressive unions, was supporting idle members on strike from the returns of weekly assessments of from one to five cents per week, levied upon the general membership. The Bricklayers and

² See Constitution, Knights of Labor (1878), Art VIII.

³ A specimen heading of one of these appeals is as follows:

"Noble Order of Knights of North America,—Peace and Prosperity to the Faithful,

"To the Order wherever found, greeting,

"Another mighty conflict between organized capital and labor has been in progress for the past few weeks. It has not been heralded by the sound of the whistle or the beating of the drum, but with the calmness of a fixed determination, both sides silently confronting each other, each recognizing that a death struggle for supremacy is taking place," etc. See Proceedings of the Eighth Regular Session of the General Assembly of the Knights of Labor, pp. 615, 616.

Masons, the Journeymen Horseshoers and the Glass Bottle Blowers were doing likewise. The inadequate returns obtained from these assessments compelled the local branches to rely mainly on their own resources when engaged in strikes or lockouts. It was soon recognized, however, that a more efficient method of strike financiering must be resorted to if success in labor difficulties was to be attained. The American Federation of Labor, which in prestige was fast superseding the General Assembly of the Knights of Labor, though itself refraining from active participation in labor disputes, exerted a strong influence towards accomplishing this purpose by urging the adoption of higher dues and the accumulation of defense funds by its affiliated organizations.⁴

The movement toward a "defense fund" policy was further influenced by the centralization of functions in the national unions themselves. The Iron Molders' Union, for example, in 1882 assumed control over the inauguration and conduct of local strikes, and, at the same time, made provision for an emergency defense fund, to be used in paying strike benefits until special assessments, levied for the purpose, could be collected.⁵ With the increasing responsibility of the national union for the defense of strikes during the years following, this system in turn proved inadequate, and in 1890, the assessment method was abolished altogether and a permanent fund, supported by a fixed monthly revenue, was established.⁶ The progress of the "defense fund" principle in the International Typographical Union has been somewhat slower. In 1885, this organization first assumed the responsibility of paying regular strike benefits to members engaged in authorized strikes. The year following, in place of separate strike funds maintained for general use

⁴Report of the Proceedings of the Eighteenth Convention of the American Federation of Labor, p. 12.

⁵Constitution and Rules of the Iron Molders' Union (1882), Art. VI, sec. 7.

⁶The monthly per capita tax was increased from twenty-five to forty cents, of which fifty-eight per cent was devoted to the support of strikes; see Constitution and Rules (1902), Art. VI, sec. 2.

by locals, an International Defense Fund, supported by assessments levied upon the locals as required, was instituted. This system of irregular assessments proved utterly ineffective in procuring revenue,⁷ and after a two years' trial was replaced by a monthly per capita tax of five cents. The small income derived from this tax, however, permitted the international union to support but few local strikes, and consequently the striking locals continued to rely on their own reserves or to resort to appeals for voluntary contributions. In 1890 it was pointed out by the international president that every member drawing one week's benefit (\$5.00) from the defense fund, received from the union a sum equal to the entire per capita tax (at the rate of ten cents per month), during a period of four years and two months.⁸ Although the revenue allotted to the international defense fund has been increased from five to seven and a half cents per member per month, it is still deemed inadequate for the demands made upon it. Up to within the last few years the annual receipts have been barely sufficient to pay continuous strike benefits to eighty men.⁹

The organization that within a comparatively recent period has made the most rapid strides toward the adoption of a strike fund policy is the Glass Bottle Blowers' Association. Previous to the industrial depression of 1893 this union de-

⁷ Proceedings of the Thirty-sixth Session of the International Typographical Union, p. 16.

⁸ Proceedings of the Thirty-eighth Annual Session, p. 13.

⁹ See report of President Donnelly in *Typographical Journal*, Vol. VII, No. 4. During the year ending June 30, 1904, the receipts of the "Defense Fund," including balances, were \$75,921.64, and expenditures (which include the expenses of organizers incurred in settling disputes) \$73,420.26. By a vote of the membership of the International Typographical Union in November, 1903, the per capita tax was raised from thirty to thirty-five cents per month, for the express purpose of creating a special defense fund, to be used in "advancing and defending the principles of unionism, as applied to our own trade whenever and however the Executive Board may decide." It is understood that this increased revenue, together with another special fund ordered by the convention of 1904, to be raised by each local by a regular assessment of one-half of one per cent on all moneys earned by its members, will be used for purposes of furthering the movement for an eight-hour working day.

pended almost exclusively upon special wage assessments, levied as required upon employed members as a means of supporting strikes.¹⁰ The failure of this method during dull times when large numbers were out of work and earnings were small, however, pointed out the value of a reserve fund accumulated during seasons of prosperity. The convention that met in 1896 provided that thereafter each member should pay regularly two per cent of his earnings to the general treasury until the amount therein should equal the sum of \$100,000.00, when the assessment might be reduced to one per cent. Not satisfied with this reserve, in 1902 the convention raised the limit of the fund to \$250,000,¹¹ thus giving the Glass Bottle Blowers' Association a larger fund in proportion to its membership, than any other similar organization.¹²

The principal factor responsible for the maintenance of so large a "defense fund" by the Glass Bottle Blowers' Association is the existence of a combination of the manufacturers in the trade. The fact that the Glass Bottle Blowers' Association enforces a uniform national scale of piece-work prices and shop regulations and enters into agreement annually concerning these matters with representatives of the Glass Bottle Manufacturers' Association makes possible a general strike involving a large number of members. This naturally requires a power of endurance and accumulated financial resources. It is owing to the same reason also, that the Amalgamated Association of Iron, Steel and Tin

¹⁰ These assessments not infrequently equalled ten per cent of the earnings.

¹¹ This was done contrary to the advice of the President, who held that since the executive officials of the union were empowered to increase the wage assessment during a strike to meet the requirements of the situation, a reserve of \$150,000 would be sufficient; see Proceedings of the Twenty-seventh Session of the Glass Bottle Blowers' Association, p. 54.

¹² The Cigar Makers with a membership close to forty thousand, or four times as great as the Glass Bottle Blowers, at present have a surplus of about \$600,000. This is devoted, however, to both beneficiary and protective purposes. The minimum reserve of the international union is fixed by the constitution at ten dollars per member.

Workers, the Brotherhood of Operative Potters, the American Flint Glass Workers' Union, the Iron Molders and the various brotherhoods of railway employes endeavor to maintain permanent reserve funds to which they devote a large share of the union's income. The American Flint Glass Workers' Union in 1904 adopted a constitutional provision requiring seven per cent of the earnings of each member to be collected each pay day and forwarded to the National Secretary as a regular revenue for a "Resistance Fund."¹³ This undoubtedly represents the highest premium paid for trade protection in any national labor organization on the American continent. The Brotherhood of Operative Potters follows a similar wage assessment plan for maintaining a defense fund, but during ordinary times taxes members only one per cent of their earnings.¹⁴ In the Amalgamated Association of Iron, Steel and Tin Workers, the revenue applied to the defense fund consists of a per capita tax of sixty cents quarterly. Whenever the amount in the fund, however, falls below \$200,000, it is the duty of the president to levy an extra assessment of from one to five per cent of the members' wages until the deficiency is made up.¹⁵ Of the railway unions, the Brotherhood of Locomotive Firemen maintains for defensive purposes a permanent reserve of \$250,000, and the Brotherhood of Conductors and the Locomotive Engineers, \$100,000.

The centralization of union functions in the national bodies and the increasing craft solidarity, already alluded to in the preceding pages, are further causes tending toward the adoption of a "defense fund" policy by the American unions. Although as a last resort even the best endowed

¹³ Constitution of the American Flint Glass Workers' Union (1904), Art. XI. Previously the assessment was fixed at two per cent of the earnings.

¹⁴ Constitution of the Brotherhood of Operative Potters (1902), Art. XVII.

¹⁵ Constitution of the Amalgamated Association of Iron, Steel and Tin Workers (1903), Art. VI, sec. 4. This provision has since been amended. A vote of the membership is now required to authorize a special assessment levy.

organizations must have recourse to special assessments as a means of sustaining strikers, such emergency measures are coming to be relied upon less and less.¹⁶ The difficulty of collection and the delay in receiving the returns makes the assessment method of raising funds peculiarly unsuited for strike financiering. It not infrequently happens that in organizations relying chiefly upon special assessments for sustaining strikers, the levies do not begin to bring returns until the occasion for them is past.¹⁷ As a general rule, moreover, during dull seasons when money is most urgently needed for strike purposes the members are least able and less willing to bear the extra strike charges levied upon them.

Yet, in spite of the difficulties involved in the levy of special assessments, fully one half of the existing American national trade unions rely almost exclusively upon this method of strike financiering. Many, indeed, are of too recent origin and too weakly constituted to inaugurate a "defense fund," while others continue the policy of having the greater share of the burden of supporting conflicts fall upon the locals immediately concerned therein, merely granting them subsidiary aid. The Journeymen Horseshoers' Union, for example, a national organization dating back to 1874, pays no strike benefits to members, but levies assessments and grants only subsidiary aid to locals when engaged in serious difficulties. Thus, during the recent general strike of the New York local, the national officials, between July 1, 1903, and June 30, 1904, levied assessments in aid, aggregating \$3.50 per member, the largest single assessment being twenty-five cents.¹⁸

¹⁶ As a matter of fact, in the unions where the dues are highest and the reserve funds largest, special assessments are more readily paid than in the poorer organizations. Thus, in the Cigar Makers, the Glass Bottle Blowers and the Railway Brotherhoods extra levies are generally paid promptly and without evasion.

¹⁷ See the Garment Worker, August, 1902, p. 9, Stone Cutters' Journal, September, 1900, p. 2 and Proceedings of Twelfth Annual Convention of the United Mine Workers of America (1901), p. 43.

¹⁸ Report of the President to the Twenty-seventh Annual Convention, Journeymen Horseshoers' Magazine, July, 1904, p. 21.

Another instance of the persistence of the special assessment method of supporting strikes is found in the Bricklayers' and Masons' International Union. Almost from the time of its formation in 1865 down to the present, this organization has regularly supported local strikes whenever the principles at stake were deemed by the membership to affect the trade as a whole. In every case where the dispute was thus duly sanctioned, a weekly assessment, proportioned to the number of men on the strike pay roll, and ranging from two to twenty-five cents per member, has been levied. Since 1890, however, owing to the inevitable delay in collection, the union has found it necessary to maintain a contingent fund, out of which strike benefits are temporarily paid until the returns from assessment levies are received, when the money thus drawn is returned to the fund. The relative infrequency of strikes of a general nature in the Bricklayers has prevented the special assessments from becoming burdensome to the membership, a fact which undoubtedly explains the persistence of the cruder method of strike financiering.

In addition to the maintenance of defense funds and the levying of special assessments, the sympathetic appeal as a supplementary method of supporting strikes is extensively used at the present time by many of the American labor organizations, especially those of the weaker sort. We have already shown that this was the primitive means employed to aid the strikers, having been used by the early national unions and by the local organizations before the advent of national unions. It was resorted to extensively by the Knights of Labor, the International Typographical Union, the Iron Molders' Union and the Cigar Makers' Union. At present, however, exclusive of exceptional cases where public opinion is extremely favorable,¹⁹ it plays a minor rôle in strike financiering and when resorted to extensively is a confession of financial weakness.

¹⁹ E. g., the anthracite coal strike of 1902.

Nevertheless, the sympathetic appeal continues to be a useful weapon of defense, especially to local unions. Having, as a rule, but meagre reserves of their own, when not entitled to any part of the funds of the national body, these local organizations naturally seek the aid of sympathizing sister unions. When only the locality is canvassed, the central labor union or trades assembly is a convenient agency for the purpose.²⁰ Occasionally, however, the appeal is circulated broadcast or is directed, mainly to other locals of the same trade. Such appeals for contributions are considered a nuisance by the national trade unions, since local unions will often allow their own reserves to be depleted by a too liberal grant of "sympathetic" donations. The national organizations, therefore, seek to discourage the practice, several of them even going so far as to enact constitutional provisions either restricting or forbidding altogether the grant of donations to other organizations.²¹

The most noteworthy instance of the successful use of the sympathetic appeal is that made by the United States Mine Workers during the Anthracite Coal Strike of 1902. For the relief of strikers there was contributed altogether by other labor unions and by the public \$419,954.14 or about one fifth of the amount (\$2,225,370.28) raised by the Mine Workers themselves.²² The donations of the various local branches of the United Brotherhood of Carpenters alone

²⁰ Besides granting donations from their own funds, these central labor unions or trades assemblies, in many cities, levy extra per capita assessments upon affiliated bodies, to aid a local strike. Thus, during the strike of the Garment Workers in New York City during the summer of 1904, the Central Federated Union, in addition to appointing a committee to solicit contributions, voted to levy an assessment in aid of the strikers of ten cents per capita upon each of the affiliated unions. On this point see Burke, "Central Labor Unions," p. 85, in *Columbia University Studies in History, Economics and Public Law*, Vol. XII, No. 1.

²¹ See especially the constitutions of the Machinists, the Cigar Makers, the Shirt Waist and Laundry Workers and the 'Long-shoremen.

²² Report of Secretary-Treasurer Wilson of the United Mine Workers of America, for year ending December 31, 1904, p. 4.

amounted to \$29,412.16.²³ But a dispute of the nature of the Anthracite Strike is exceptional both in the magnitude of the struggle and the extent of interests involved. As a general rule, the appeals for contributions, even when issued by the American Federation of Labor, are of little avail in an industrial conflict, if the organization involved in the difficulty is unable to sustain its striking members from its own resources.²⁴

²³ Report of Frank Duffy, General Secretary of the United Brotherhood of Carpenters and Joiners for year ending June 30, 1903, p. 15-25.

²⁴ Evidence of this is found in the recent general strike of the Amalgamated Meat Workers and Butcher Workmen. When the strike was inaugurated, the defense fund of the organization equalled about \$36,000, an amount hardly sufficient to sustain the strikers during a period of one week. A call for voluntary contributions met with but feeble response, and the strikers were soon forced to return to work.

PART II.

EXPENDITURE.

CHAPTER I.

STRIKE EXPENDITURE.

In the early period of labor organization in America, strikes of workmen were for the most part local in character. With the exception of transportation and mining, American industries were conducted on a small scale. Consequently, only a small part of the members of a local union were rendered idle by a labor dispute and it was not difficult for the other members to aid their striking brethren until the difficulty was adjusted or work could be found for them elsewhere. Under these circumstances the separate local organizations sustained their striking members from their own financial resources independently of outside assistance.

The inauguration of national trade organizations caused little change in the method of supporting strikes. In some unions, as we have already pointed out, this was long considered a matter of local concern to be dealt with independently by the local branches. The International Typographical Union, for example, did not begin to take active part in the conduct of strikes until almost three decades after its formation, despite the fact that a proposition for a central defense fund was made at the second annual convention and discussed almost annually thereafter. In consequence of this policy, the printers' unions throughout the country were often unable effectively to enforce their demands on employers because of inadequate funds to sustain striking

members.¹ In fact, local strikes were deemed of so little concern to the organization at large that only a few of them were brought to the attention of the international officers.²

Other pioneer national trade organizations were more aggressive in assisting their local branches involved in conflicts with employers. The Iron Molders' Union, almost from its very inception in 1859, made this one of its chief functions. For a number of years, however, the assistance granted was merely subsidiary, the locals relying chiefly on their own resources. As early as 1860, the Iron Molders' National Union collected \$2,600 in assessments to aid a large strike of Albany molders. In the same year two other local strikes were assisted in a similar manner; but the money raised for the purpose was inadequate, and consequently the locals were forced to give up the struggle when their funds were exhausted.³ During the first decade of its history, the Cigar Makers' Union, founded in 1864, likewise granted only subsidiary aid to striking locals. In 1867 a system of voluntary contributions was inaugurated and the national officers were enabled to collect in that year \$2,618.09 for the assistance of five locals. The year following, only \$1,506.85 was thus collected and thereafter sums of various amounts, but always insufficient to sustain the striking members.⁴

As soon as the national unions had developed sufficient concentration of authority, this crude plan of subsidizing local branches engaged in authorized strikes and lockouts was replaced by a system of regular weekly strike allowances granted to individual members directly from national funds. The Iron Molders' Union instituted this system shortly after its organization and was soon followed by the Cigar Makers' and the Bricklayers' and Masons' Unions. The Granite Cutters, early in their history, likewise began paying mem-

¹ Proceedings of the Sixteenth Annual Session, p. 6.

² Proceedings of the Seventeenth Session, p. 8.

³ Iron Molders' Journal, December, 1888.

⁴ Journal and Program of the Cigar Maker's International Union, Twentieth Session (1893), p. 49-51.

bers engaged in strikes at the rate of one dollar per day, although no constitutional provision authorizing this practice was adopted until 1897. Later national unions have generally followed the same policy, some inserting provisions in their first constitution for a national strike benefit to be paid from the central fund, others adopting the plan as soon as their revenues became adequate for the purpose.⁵ At present, fully two thirds of the written constitutions of the national trade organizations in the United States contain provisions for the payment of a fixed rate to members involved in legally sanctioned strikes or lockouts, while a large number of the remaining guarantee to individual members some form of strike assistance.⁶

The definite allowance of a fixed sum as strike relief to individual members has marked a transition in the structure of many of the American national unions from loose associations of local units to centralized organizations controlling the movements and actions of their constituent bodies. Though not strictly regarded in all unions as an insurance obligation,⁷ such as a sick or death benefit, the strike benefit

⁵ The International Union of Journeymen Horseshoers is probably the only existing national trade union organized prior to 1880 which does not guarantee a strike benefit to individual members engaged in duly authorized strikes.

⁶ The amount of strike benefit paid by each union bears only a slight relation to the wages earned in the trade or to the financial standing of the organization. Intended merely as a subsistence wage to sustain the member and his family during the ordeal of conflict, the benefit is rarely more than \$7 per week for married men and \$5 for single men. The Amalgamated Association of Iron, Steel and Tin Workers, the earnings of whose members are equalled in few other trades, guarantees but \$4 per week; while the Cigar Makers' International Union, with a strong "war chest," pays but \$5 per week. In many organizations, however, it is the practice to supplement the benefit of the national union by a local allowance paid from the funds of the local unions.

⁷ In most of the leading organizations, the obligation to pay all legitimate claims to the strike benefit is considered as binding as other obligations. In the Cigar Makers' Union, for instance, the strike benefit has been given equal rank with the benevolent features and is regarded as a form of beneficiary expenditure. The same is true of the strike benefit in the Iron Molders' Union, the International Association of Machinists, the Bricklayers' and Masons'

nevertheless has the same cohesive power as the beneficiary features, tending to bind the individual members to the national trade organization, by means of the protection offered them while engaged in disputes with their employers.

The causes that have led to the assumption of responsibility for the support of strikes and lockouts by the national unions have already been dealt with in our discussion of the methods of strike financing and need only be briefly referred to again. The increase in the area of collective bargaining is undoubtedly the primary cause. Since industry is at present conducted on a much larger scale than during the early period of American labor organization, a single difficulty often involves the entire membership of several local unions or a considerable portion of the membership of the entire trade, thus requiring a stronger financial support than can be furnished by the local treasuries. Moreover, industrial conditions in many trades have become equalized throughout the country so that if a wage reduction or a change in working conditions is permitted in one locality, the competition of employers makes it necessary to concede a similar reduction in other localities. In this way, the pettiest trade dispute becomes the concern of the organization at large.

The extent of the functions discharged by a national trade union largely determines what part of its funds are devoted to the support of strikes and lockouts. In the purely defensive unions, such as the Amalgamated Association of Iron, Steel and Tin Workers, the United Mine Workers, the National Brotherhood of Operative Potters, and the Bricklayers' and Masons' International Union, the bulk of the union income is devoted to strike purposes, all other expenditures being merely incidental. In others, possessing more

International Union, the Granite Cutters' Union and the Stone Cutters' Association. In these organizations it early became the practice to pay strike claims long after the occasion for which they were presented had passed and even after the strikers had returned to work. See *Proceedings of the Nineteenth Session of the Iron Molders' Union* (1890), p. 36; also *Stone Cutters' Journal*, 1900, p. 2.

varied functions, strike disbursements consume a smaller proportion of the general income. Accordingly, we find that in the railway brotherhoods, the Cigar Makers' International Union, the German American Typographia, the Boot and Shoe Workers' Union, and the International Typographical Union, all of which maintain liberal systems of benevolent relief, the cost of strikes forms but a minor part of the total disbursement. Thus, the total expenditures of the Cigar Makers' Union during the five years preceding 1904, amounted to \$3,514,182.36. Of this, but \$361,475.87, or 12.8 per cent, was paid out in strike benefits. Similarly, in the International Typographical Union, for five years ending June 30, 1904, but \$226,411, or 25.8 per cent of the total expenditure of \$876,044, was spent for defensive purposes.⁸ In the Boot and Shoe Workers' Union, the proportion is much less than in either of these, only \$46,270, or less than 8.5 per cent of a total expenditure of \$552,242, being paid out for strike benefits during the five years ending June 1, 1904. On the other hand, the United Mine Workers during the four years preceding 1904 expended over \$2,566,584.86, or more than two-thirds of its total expenditure, in granting strike relief to local and district unions.⁹

The relative amounts of strike expenditures among American trade unions is chiefly dependent on the nature of the craft. Some organizations, owing to the peculiar trade qualifications demanded of their members or the important position they occupy in the industrial world, are apt to

⁸ This includes the expenses of organizers engaged in settling disputes; see page 105.

⁹ The annual expenditures from 1899 to 1903 of the United Mine Workers (exclusive of the amounts paid out by the local and district organizations) were as follows:

YEAR.	MEMBERSHIP.	STRIKE EXPENDITURE.	TOTAL EXPENDITURE.
1900	115,521	\$ 154,676.82	\$ 245,516.00
1901	198,024	202,926.07	330,143.57
1902	175,367	1,890,201.53	2,080,805.00
1903 (11 mos.)	247,240	308,780.44	573,593.47

assume a more aggressive attitude. This is especially true of the more highly skilled trades, such as glass blowing, granite cutting, printing, and engineering. In these a long apprenticeship is required for full efficiency in the trade. Furthermore, the services or commodities furnished by these highly skilled trades are usually such as cannot immediately be substituted. On the other hand, laborers in unskilled occupations, such as barbering, retail clerking, and meat packing can rarely enforce their demands, since employers can easily procure others to fill their places.¹⁰ Unions composed exclusively of unskilled workmen, therefore, find it of little advantage to accumulate large defense funds, and unless aided by other organizations or assured of a very favorable public sympathy, can hope for little success by resort to a strike.

The best type of a national trade organization composed of highly skilled workmen enforcing uniform wage scale and apprenticeship regulations throughout its jurisdiction is the Glass Bottle Blowers' Association. Since 1886 this organization has striven to acquire control over all the glass bottle factories in the United States, its efforts being directed chiefly against the shops located in South Jersey,—practically the only non-union glass bottle factories in the country. Each year thousands of dollars have been expended by the union in aiding the workmen in these shops to strike for union wages and union conditions of employment, but without success. In 1896 the organization ceased active opposition in order to accumulate a large defense fund. An open conflict was thus avoided for three years. In 1899, when the association numbered five thousand members and possessed a surplus of \$79,000, six hundred union bottle blowers¹¹ working in South Jersey factories were ordered to

¹⁰ The same holds true, to a large extent, of trades and occupations in which there is a minute subdivision of labor, such as garment making, and boot and shoe manufacturing.

¹¹ Besides the six hundred bottle-blowers, there were on the relief roll a number of window glass blowers, who were not members of the union, but who struck in sympathy. To these men \$45,826 was

strike for union wages and union conditions. The heavy expense of maintaining these men during their ensuing idleness soon exhausted the reserve fund on hand and necessitated a resort to extra assessments levied upon the earnings of the employed part of the membership. Between April 8, 1899, and July 1, 1900, there was paid out for the relief of the strikers \$172,659.13, an expenditure of about \$35 for every member of the organization. The special assessments levied for the support of the strikers during a period of ten months were equal to about four per cent of the members' earnings.¹² After a cessation of hostilities lasting two years, the strike in South Jersey was resumed on April 8, 1902, resulting in an additional expenditure up to July 1, 1903, of \$244,000, a larger sum than was spent in 1899. Besides the expense of maintaining on the relief roll over five hundred journeymen and apprentices, an executive officer and two paid leaders were kept on the ground. Considerable litigation, involving extra cost to the union, has also resulted from the strike.¹³

The American Flint Glass Workers' Union, an organization much smaller than the Glass Bottle Blowers' Association, but whose members possess the same high standard of skill, likewise conducts expensive and protracted strikes. With a membership averaging about 7500, this organization during the five years between 1893 and 1898 paid out \$1,101,944.70 for strikes, an average of \$220,388.94 annually. A single difficulty in Washington, Pa., begun in October, 1902, and not declared off until a year thereafter, cost the union over \$96,000. Two extensive lockouts occurring during the same year also involved an expense approximating \$75,000.¹⁴

paid in strike benefits out of the funds of the Glass Bottle Blowers' Association; see Proceedings of the Twenty-fourth Convention, p. 23.

¹² Proceedings of the Twenty-fourth Session of the Glass Bottle Blowers' Association, p. 27.

¹³ Ibid., Twenty-seventh Session, pp. 40-45.

¹⁴ Proceedings and Annual Reports of the Twenty-seventh Convention of the American Flint Glass Workers' Union, pp. 140-141. Bulletin of the Department of Labor, May, 1899, p. 394.

The cost of strikes and lockouts in the Granite Cutters' Union and in the Amalgamated Association of Iron, Steel and Tin Workers is also large. Both organizations are composed of highly skilled workmen, who adhere to a rigid code of piecework and apprenticeship regulation, and who contribute toward the maintenance of large reserve funds for defensive purposes.

The nature of the assistance granted striking members by the national unions is also an important element in determining the amount of their strike expenditures. We have shown in the previous chapter how as the older unions gradually developed a centralized financial system they began to assume responsibility for the support of local strikes, whereas in the newer and more loosely organized unions, strikes are still regarded largely as local affairs, and are financed by local funds. This difference in the financial development of the national trade organizations naturally gives rise to large differences in the relative amounts expended for strike purposes. Thus, in the Cigar Makers' International Union since 1879, all strikes inaugurated according to the rules prescribed in the constitution, whether involving ten men or ten thousand men, are supported from the general fund, each of the strikers receiving a weekly strike benefit. Accordingly, the average strike expenditure of this Union when estimated on a per capita basis, is much higher than in unions that assume the responsibility for the support of strikes only when the principle at stake affects the trade as a whole, or when a large number of members are involved. The average yearly per capita cost of strikes in the Cigar Makers' Union, for example, during the decade from 1890 to 1900 amounted to \$1.36, whereas, in the Brotherhood of Carpenters and Joiners, a national union which grants assistance to locals only when engaged in general strikes, and then only when funds are available for this purpose, the average yearly per capita cost during the

same period was but \$.69.¹⁵ Similarly, in the Iron Molders' Union, the International Association of Machinists, the Granite Cutters' Union and others that pay out a fixed weekly strike benefit to all members engaged in legally sanctioned strikes or lockouts, the scale of expenditures is much higher than in organizations such as the Brotherhood of Painters and Decorators, the Journeymen Horseshoers' Union, and the United Metal Workers' Union which do not guarantee a fixed strike relief to individual members from a central fund, but prefer to subsidize their locals when engaged in serious difficulties with employers.

The introduction of new processes and sudden changes in the conditions surrounding a trade or industry are further factors affecting the amount of strike expenditures in the various trade organizations. Even if the attitude of the union is conciliatory, the disturbance in trade conditions generally entails an increase in the expenditures for defensive purposes. Thus, the period of the introduction of the mould in the cigar manufacturing industry was marked by a series of petty strikes throughout the country which caused the Cigar Makers' Union serious embarrassment.¹⁶ The effect of the introduction of the linotype in the printing trade was much the same, although the conciliatory attitude taken by the International Typographical Union prevented serious disturbances, and an undue expenditure for strike relief.¹⁷ The introduction of the planer in the stone cutting industry is giving rise at the present time to serious disturbances between union stone cutters and employes, and threatens to entail upon the Stone Cutters' International

¹⁵ In the Typographical Union during the decade between 1890 and 1900, the average yearly cost of strikes was \$1.26 per member or slightly less than that of the Cigar Makers; see table on page 69.

¹⁶ Journal and Program of the Cigar Makers' International Union, Twentieth Session, 1893, p. 53. The introduction of the "suction table" in the rolling of cigars, has been a further cause of disturbance to the Union.

¹⁷ See Barnett, "Introduction of the Linotype," Yale Review, November, 1904.

Association a higher scale of strike expenditures than heretofore.¹⁸

Similar in effect to the introduction of labor saving machinery is the sudden falling off or rapid rise in the demand for the product or services of a class of laborers. The great boom in the building trades in New York and in other large cities during the last few years has occasioned numerous and widespread strikes and lockouts among building laborers. Largely as a result of the disturbances, the strike disbursements of the United Brotherhood of Carpenters and Joiners rose from \$36,355 during the fiscal year 1901-1902 to \$139,922.80 during the year following. In the International Association of Journeymen Plumbers there was a similar increase in strike expenditure due to the same reason.¹⁹ Likewise, in opposing wage reductions in times of trade depression, organized workmen look to their unions for aid. The draining of the defense funds during dull seasons has been one of the greatest hindrances to the progress of the loosely organized and weaker unions.²⁰

The inauguration of an aggressive movement by a national union usually causes heavy temporary expenditures for strike benefits. Examples of such movements are the fight against the tenement house system by the Cigar Makers, the anti-sweat shop crusade of the Garment Workers and the general demands for a shorter work-day, such as have already been made by the Carpenters, the Granite Cutters and the Machinists. In all of these instances strikes were resorted to as a means of attaining the end desired. The strike conducted by the Cigar Makers of New York City in the winter of 1878 against tenement house work, for example,

¹⁸ The same condition prevails in the glass trades, all branches of which have recently been invaded by machinery; see Proceedings of Twenty-third Annual Convention of the Glass Bottle Blowers' Association.

¹⁹ Official proceedings of the Fourteenth Convention of the United Association of Journeymen Plumbers (1904), pp. 45 and 46.

²⁰ Report of the Proceedings of Sixteenth Annual Session of the American Federation of Labor (1896), pp. 14-15; also Seventeenth Annual Session, p. 7, and The Carpenter, June, 1896.

is estimated to have cost over \$50,000. Of this amount the international union whose aid at this early date was merely subsidiary, paid out over \$11,000.²¹ The eight-hour movement of the Granite Cutters begun in January, 1900, entailed an expenditure of over \$100,000 for strike benefits before resulting successfully, despite the fact that the employers were given three years' previous notice thereof. For a similar purpose, the Brotherhood of Carpenters and Joiners expended during the period from 1888 to 1894, \$330,583²² in strike assistance, while the nine-hour movement of the Machinists begun in the spring of 1901 involved a still larger expenditure. Both the Carpenters and the Machinists received financial aid from the American Federation of Labor.

Summing up the principal causes and conditions determining the relative amounts of strike expenditure in American national unions, we may conveniently classify them under three heads: (1) the nature of the craft or industry; (2) the character of the financial assistance granted to strikers, and (3) the defensive or aggressive policy of the union. Since each union is affected by these influences in a different manner and at different times, it is impossible to compare with any degree of exactness the expenditures of American national unions for defensive purposes. The best that can be done is to analyze the cost from year to year in certain representative unions and to endeavor in this way to reach some conclusion as to the general trend of strike expenditures in American trade unions.

As regards the character of their strike expenditures, American trade unions may be conveniently grouped under two heads:²³ (1) those in which strikes are of considerable

²¹ Cigar Makers' Journal, September 15, 1879.

²² See Proceedings of the Eighth General Convention of the United Brotherhood of Carpenters and Joiners, p. 26.

²³ This classification does not imply that the unions which are subject to petty or frequent conflicts may not, at times, conduct general strikes, nor that those in which general strikes are the rule, never have disputes of a purely local character. On the contrary, there are many organizations, such as the Granite Cutters, the Iron Molders and the Pattern Makers which may be placed in either group.

magnitude, usually covering a whole competitive district, but occurring only at considerable intervals; and (2) those in which strikes are frequent, but generally of a local character. Examples of the first class are the various unions of railway employes, and organizations such as the United Mine Workers, the Amalgamated Association of Iron, Steel and Tin Workers, and the Glass Bottle Blowers' Association, whose members either work in large groups under the same firm or employer, or who are employed under a general trade agreement between the union on the one hand and a manufacturers' association on the other.²⁴ Since a single dispute with employers in these unions may involve a large part, if not all, of the membership, adequate revenues and a central reserve fund for defensive purposes are considered of vital importance to the strength and stability of their organization. Though costly strikes are contingent items in the yearly budget, they must be provided against in the same way as large corporations insure themselves against fire, floods, and other damaging accidents.²⁵ Included in the second class of unions, i. e., those having numerous small strikes, are the Cigar Makers' International Union, the United Brotherhood of Carpenters and Joiners,

²⁴ See page 56.

²⁵ The disparities in the yearly strike expenditures of unions of this class are well illustrated by the following table of the annual disbursements from the protective fund of the Brotherhood of Locomotive Firemen; see *Locomotive Firemen's Magazine*, Part II, August, 1900.

YEAR.	MEMBERSHIP.	STRIKE EXPENDITURE.
1888	18,728	\$220,036.10
1889	17,087	246,363.65
1890	18,657	428.75
1891	22,460	436.05
1892	25,967	458.15
1893	28,681	12,746.20
1894	26,506	107,556.87
1895	21,408	10,901.42
1896	22,461	176.59
1897	24,251	874.40
1898	27,039	1,235.84
1899	30,748	1,221.30

the United Garment Workers, the International Association of Machinists, the Iron Molders' Union, the Brotherhood of Painters and Decorators, and the International Typographical Union. Because of the constant character of the charge in unions of the second class, an analysis of the yearly cost of strikes in a few representative unions throws light on the general trend of such expenditures in American trade unions. Although the cost of strikes to these organizations may vary somewhat from year to year, it is, nevertheless, a continuous expense and must be met in the same manner as a railroad provides for repairs and renewals.

STRIKE EXPENDITURES OF THE CIGAR MAKERS' UNION.

YEAR.	MEMBER-SHIP. ¹	COST OF STRIKES.	PER CAPITA COST.	TOTAL EXPENDITURE.
1879	1,250	\$3,668.23	2.92	No record obtainable.
1880	3,159	4,950.36	1.57	
1881	8,300	21,797.68	2.62	
1882	11,430	44,850.41	3.92	
1883	13,214	27,812.13	2.10	\$151,249.39
1884	11,871	143,547.13	12.09	383,443.47
1885	12,000	61,082.25	5.09	214,442.35
1886	24,672	54,402.61	2.20	245,445.02
1887	20,566	13,871.62	.67	261,152.54
1888	17,189	45,303.62	2.64	288,972.47
1889	17,555	5,202.52	.30	273,261.96
1890	24,624	18,414.27	.75	291,230.88
1891	24,221	33,531.78	1.38	384,711.65
1892	25,000	37,477.60	1.50	427,654.40
1893	26,788 ²	18,288.15	.67	535,517.51
1894	26,788	44,966.76	1.68	615,546.46
1895	27,828	44,039.06	1.58	642,609.38
1896	28,341	27,446.46	.98	664,879.72
1897	28,914	12,175.09	.45	514,245.77
1898	26,460	25,118.59	.95	513,909.50
1899	28,944 ²	12,331.64	.42	460,981.15
1900	33,955 ²	137,823.23	4.06	750,124.13
1901	33,974 ²	105,215.71	3.09	745,294.20
1902	37,023 ²	85,247.14	2.30	741,246.94
1903	39,301 ²	20,858.15	.53	618,635.94
1904	40,075 ²	32,888.88	.81	697,265.81

¹ As reported on January 1st of years following.

² Includes only those paying 30 cent dues.

From the foregoing table giving the annual expenditures for strikes in the Cigar Makers' International Union from 1879 to 1904, it will be noted that prior to 1889 the average per capita cost was much higher than in subsequent years. This difference is explained largely by the fact that during the former period strikes were unwisely inaugurated by many locals during unfavorable trade seasons. Thus, the large expenditure during 1884, amounting to \$143,547.13 or \$12.09 per capita, was directly attributable (according to Mr. Adolph Strasser, the international president) to a large number of strikes against a reduction of wages during a season of trade depression. The rules later adopted restricting the power of local unions to inaugurate strikes and the greater influence exercised by the international officers in settling disputes reduced the expenditure considerably.²⁶ This is shown in the comparatively low cost during the period of business depression from 1893 to 1899. Although the output of cigars fell off rapidly during these years and wages were reduced in a number of localities, the average per capita cost of strikes was lower than during any similar period in the union's history. Unfavorable trade conditions, instead of resulting in a larger number of strikes than formerly, led the international union to discourage trade conflicts so that, as far as possible, the funds might be used in the payment of out-of-work benefits and travelling loans to unemployed members.²⁷

There appears to be no tendency toward a permanent decrease in the cost of strikes in the Cigar Makers' Interna-

²⁶ See Proceedings of the Sixteenth Session (1889), p. 6. In his report to the Sixteenth Session (1885) Mr. Strasser enumerated the following as the causes of unsuccessful strikes:

(1) The want of a thorough system of organization or a loose system of organization. (2) Insufficient funds to meet all requirements. (3) Insufficient knowledge of the condition of the trade and the inauguration of strikes during the most unfavorable season.

²⁷ Thus, during the five years ending September, 1901, 531 applications for permission to strike were made by local unions and but 283 were approved. See Report of the President of the Cigar Makers' International Union for term ending September 1, 1901; also Proceedings of the Twenty-first Session (1896), p. 19.

tional Union, despite the caution exercised by the Cigar Makers in inaugurating strikes. Indeed, it would appear from the table that the tendency is in the opposite direction, since the average yearly per capita cost for the period from 1893 to 1896 inclusive was \$1.07, whereas, during the five years following, it was \$2.24. But, as we have just pointed out, the low cost in the earlier period was due largely to the policy of avoiding strikes during a trade depression, and hence the subsequent increase does not signify permanent upward movement in strike expenditure. In fact, since 1889 when the restrictions now in force were placed upon the inauguration of strikes by the locals, the protective policy of the international union has not changed. This, however, has not prevented large differences in the yearly amounts paid out for strike benefits. Thus, during 1899, the expenditure amounted to but \$12,311.64 or but \$.42 per member, whereas during the year following it rose to \$137,823.23 or \$4.05 per member.²⁸ Similarly the cost fell from \$2.30 per capita in 1902 to \$.53 in 1903.

The trend of strike expenditure in the Iron Molders' Union differs somewhat from that of the Cigar Makers. The almost continuous growth in the cost of strikes has been due partly to the adoption of a "defense fund" policy by the union and partly to the opposition of employers' associations. Prior to 1890, before the establishment of a central defense fund, on a secure financial basis, there was little regularity in the payment of strike benefits by the Iron Molders. Consequently, the larger locals conducted strikes independently, paying the expense from their own funds. This practice, however, was gradually abandoned as the na-

²⁸ The high cost during 1900 and 1901 was due to an extensive and protracted strike in New York City involving more than 6,000 cigar makers. The total expense of this single difficulty aggregated \$286,778, of which the international union paid out \$107,000. The remainder was received from the American Federation of Labor, and from other voluntary contributions.

tional union acquired sufficient funds for defensive purposes. The local unions were accordingly led to seek the approval of the national union in their conflicts, and thereafter to expect pecuniary assistance from them. The consequence was an enhanced responsibility on the part of the national union for the financial support of local strikes and a greater demand for strike assistance. At the same time also, there was a marked improvement in the fiscal resources of the organization, thus enabling strike benefits to be paid more promptly than heretofore.

STRIKE EXPENDITURES OF THE IRON MOLDERS' UNION.

PERIOD.	LENGTH OF PERIOD.	COST.	AVERAGE YEARLY COST.
1874-76	2 years.	\$16,117.46	\$8,058.73
1876-78	2 "	15,568.65	7,784.32
1878-82	4 "	19,894.63	4,973.65
1882-86	4 "	56,343.53	14,085.88
1886-88	2 "	33,883.54	16,941.77
1888-90	2 "	67,967.32	33,982.16
1890-95	5 "	209,967.52	41,994.38
1895-99	4 "	175,704.49	43,926.12
1899-1902	3 "	327,961.86	109,320.62

The formation of manufacturers' associations in the trade is perhaps the most important cause leading to an enlargement of the strike expenditure of the Iron Molders' Union. In 1886 the Stove Founders' Association, and in 1898 the National Founders' Association were organized for the purpose of dealing with the demands of the union. A conflict with the latter of these two associations resulted in the Cleveland strike, which beginning in July, 1900, and lasting eight months, involved five hundred and ninety-six molders and eighty apprentices and cost the union in strike benefits alone \$104,638.²⁹ The year 1904 in consequence of another breach with the National Founders' Association, witnessed

²⁹ Proceedings of the Twenty-first Session of the Iron Molders' Union, p. 27.

a rapid rise in the scale of strike expenditure, \$266,283.43 having been paid out in strike benefits.²⁰

Trade agreements, however, as well as trade conflicts, have tended to increase the strike expenditure of the Iron Molders. To prevent the independent manufacturers, not members of the associations, from enjoying competitive advantages as to wages and hours of labor, increasing emphasis has been laid on the policy of equalizing conditions in the trade, resulting in a series of protracted and costly strikes in all parts of the country. During the three years from 1899 to 1902, more than one hundred separate conflicts occurred at a cost to the Iron Molders' Union of over \$300,000.²¹

The trend of strike expenditures in the International Association of Machinists is very much the same as in the Iron Molders' Union. As in the latter organization, the expense has been constantly augmented both because of the opposition of an employers' association (the Metal Trades Alliance) and the disposition of the local unions to rely more and more upon the funds of the International Association to sustain them during conflicts. The general demand for the nine-hour work day in the trade, made in May, 1901, was bitterly contested both by members of the Metal Trades' Alliance and the railroad companies, and occasioned a heavy drain upon the funds of the International Association. Thus, strike expenditures rose from \$35,892.24 during the year ending March 31, 1901, to \$168,639.36, in the year following. Since this time, despite the fact that the nine-hour day had been won in a majority of the shops, no appreciable reduction in the strike expenditure is noticeable. The policy of the International Union has been to lend its support to all authorized conflicts, whether a small or large number of men are involved, and thus to obviate the ill effects of independent local strikes. This has entailed an ever-increas-

²⁰ Iron Molders' Journal, February, 1905, p. 102.

²¹ Proceedings of the Twenty-second Session, pp. 612 and 627.

ing expenditure for strike benefits. Thus, during the fifteen months ending June 30, 1904, two hundred and two separate difficulties were supported at a total cost of \$183,798.47.²² This represents an average payment of \$6 for one week to 27,295 striking members, or about one-third of the total membership.²³

STRIKE EXPENDITURES OF THE UNITED BROTHERHOOD OF CARPENTERS AND JOINERS.

PERIOD.	MEMBER-SHIP. ²	STRIKE EXPENDITURES.	BIENNIAL PER CAPITA COST.	TOTAL EXPENDITURE.
1886-88	21,423	\$10,311.83	.49	\$ 59,667.51
1888-90	28,416	75,497.48	2.65	98,093.43
1890-92	50,000 ³	71,336.00	1.43	162,971.57
1892-94	33,000 ³	53,427.62	1.62	177,335.34
1894-96	29,000 ³	15,015.00	.52	124,567.00
1896-98	31,500	8,697.00	.28	135,275.15
1898-00	18,000	38,615.00	.57	206,781.04
1901-02 ¹	126,500	36,355.00	.29	188,987.76
1902-04	161,205	188,373.18	1.18	779,661.03

¹ No record for year of 1900-1901.

² Membership for July of last year designated.

³ Approximate.

The Brotherhood of Carpenters and Joiners differs from the three organizations already considered in that the national union guarantees no fixed strike pay to individual members, but merely grants such financial assistance to striking locals as the amount of the general funds on hand warrant.²⁴ Consequently the fluctuations in the disbursements for this purpose have corresponded closely to the financial condition of the Brotherhood. Thus, during the period from 1888 to 1894, when the demand for the eight-

²² *Machinists' Journal*, September, 1904, pp. 788-789.

²³ The strike benefit of the machinists is \$7 per week for married men and \$5 per week for single men.

²⁴ Constitution of the Brotherhood of Carpenters and Joiners (1903), sec. 133; also the Report of the Secretary for the term ending June 30, 1903, p. 27.

hour day was being agitated among union carpenters, and when, in consequence of a rapid growth in membership, there was a marked improvement in the finances of the organization, the amount of strike expenditures (as shown in the table) was relatively much higher than during the following six years, when owing to a decline in membership, the union was in financial straits.³⁶ Strike assistance during the latter period was granted only where most urgently needed. Of late, however, because of the rapid increase in membership and revenue, the cost of strikes to the United Brotherhood is again tending upward. During the fiscal period 1903-04 expenditure for this purpose amounted to \$188,372.18, or \$1.18 per member, whereas during the six years previous the biennial per capita cost did not exceed half this sum.

Although local strikes among carpenters, as among cigar makers, in a great majority of instances, involve a small number of men,³⁶ the tendency for building employers to combine into associations for the purpose of dealing collectively with the unions has within recent years resulted in a number of large and protracted strikes, thus causing an increasing demand for strike assistance from the funds of the United Brotherhood. For example, a strike of the Builders' Association of Chicago, in the winter of 1900, which lasted eight months and rendered idle several thousand carpenters, entailed an expense upon the United Brotherhood of \$13,000,³⁷ much above the average amount expended in a single difficulty.³⁸

The strike expenditures of the four representative American trade unions described above show plainly the effect of

³⁶ See page 99.

³⁷ These small strikes, known as "shop" strikes receive no financial aid from the United Brotherhood.

³⁸ Proceedings of the Eleventh Session, p. 50; see also Proceedings of the Thirteenth General Session, p. 87.

³⁹ Thus from 1894 to 1898 the highest amount paid out in a strike was \$4,500; see Proceedings of Ninth Session, p. 27, and Tenth Session, p. 30.

the tendencies towards the centralization of powers and functions in the national organizations. The same causes which in the political world have led kindred peoples to combine issues and act as a unit in matters of common interest have, in the industrial world, compelled both employers and workmen to centralize authority in their respective combinations and to stand united against each other. The collective action on both sides results in larger and more bitterly contested strikes and inevitably leads to an enhanced responsibility on the part of the national unions to their striking members. Whether the process of centralization leads to a permanent increase in the strike expenditures of American trade unions is still a matter of conjecture, but certain powerful influences make in the opposite direction.

Undoubtedly, the greatest advantage arising from the assumption by the national unions of the entire responsibility for the support of members involved in disputes with employers, is the control thus gained over strikes. By this means an effective check is put upon the rash and wasteful conflicts so frequently inaugurated by local unions, and the organization is often saved from severe loss both in revenue and membership consequent upon the bankruptcy and dissolution of the locals involved.³⁹ The president of the International Association of Machinists declared in 1891 that "nine-tenths of the strikes that are lost or even compromised can be credited to the fact that our local lodges take it upon themselves to order strikes even without notifying the Grand Lodge prior to the strike's taking place."⁴⁰

The desire to avoid the damaging effects of unauthorized local strikes has led the leading organizations in which strike

³⁹ A strike inaugurated by a Cincinnati local of the Iron Molders' Union in 1885, contrary to the wishes of the general executive board, involved almost every stove molder from Pittsburg to Quincy and resulted in the collapse of several of the best locals in the organization; see Proceedings of the Seventeenth Session of the Iron Molders' Union, p. 9.

⁴⁰ Machinists' Journal, 1901, p. 464; see also Proceedings of the Fourteenth Convention of the United Association of Journeymen Plumbers, etc. (1904), p. 29.

assistance is granted from a central fund to adopt restrictive regulations. According to the present constitution of the Iron Molders' Union,⁴¹ the inauguration of a strike by a local without the sanction of the general executive board is deemed sufficient reason for the suspension of the local from "the rights and privileges of the Iron Molders' Union." The rule adopted at the St. Louis convention of the International Typographical Union in 1904 is even more drastic, since it makes it the duty of the international executive council to "immediately disown all strikes occurring without its sanction and to guarantee protection to all members who remain at or accept work in the offices affected by the illegal strike."⁴² Similar measures have likewise been taken in the other highly centralized organizations. Thus, in the Cigar Makers' International Union, every grievance involving more than twenty-five members must be submitted to a general vote, a two-thirds majority of the entire membership being necessary to authorize a strike.⁴³ It is also the policy of the Cigar Makers to conduct but one or two large strikes at a time, and to refrain from entering upon a conflict during the dull season of the year.⁴⁴ The Iron Molders' Union requires each local desiring to inaugurate a strike to submit to the general headquarters a statement of its grievances. This bill of grievances or "strike circular," as it is called, is examined and verified by the general executive board, which after reviewing the conditions of the trade decides whether a strike is necessary.⁴⁵ The International

⁴¹ Constitution and Rules (1902), Art. VII, sec. 2.

⁴² Proceedings of the Fiftieth Session of the International Typographical Union (1904), p. 50. The occasion leading to the enactment of this law was the unfavorable outcome of large strikes in Boston and Louisville, which had been entered upon during the year previous without the sanction of the officers of the Typographical Union.

⁴³ Constitution, sec. 86.

⁴⁴ The present constitution of the International Union, sec. 92, prohibits a strike from December to April, except in twelve specified States.

⁴⁵ Constitution and Rules of the Iron Molders' Union, adopted 1902, Art. VII, p. 35.

Association of Machinists, the Journeymen Plumbers, the Granite Cutters' Union, the Brotherhood of Painters and Decorators, and the Boot and Shoe Workers' Union follow the same procedure, the aim being in each case to check an unwarranted expenditure by placing strikes under the control of the national executive officers.

The value of such restrictive measures and the effect of a centralized control over the inauguration and conduct of strikes are well illustrated by the experience of the Bricklayers' and Masons' International Union. Although in this union, as in most others of the building trades, local and "shop" strikes are ordinarily conducted independently by the local lodges, strikes in which the principles involved concern the trade in general are supported by the national organization. Previous to 1893 the national constitution provided that a local desiring this support must first obtain the sanction of two-thirds of the total number of local lodges before entering upon a strike. This rule, however, was not a sufficient check upon wasteful expenditure. At least the general executive officers were of the opinion that more was being paid out in strike benefits than was warranted by trade conditions. Accordingly, through their efforts, the restrictions were made more rigid. The constitution of 1893 provided that a local lodge desiring to enter upon an authorized strike must first take a written vote thereon, and that two-thirds majority of all members must be obtained.⁴⁶ Furthermore, it was enacted that before such application should be made to the general headquarters, a local arbitration committee or a special deputy appointed by the president of the national union must endeavor to bring about a settlement of the grievance.⁴⁷

⁴⁶ If there was more than one local union in the same city, they were to be regarded as one in taking such vote. Constitution of the Bricklayers' and Masons' International Union (1894), Art. XII, sec. 2.

⁴⁷ Constitution (1894), Art. XVIII.

The strict interpretation of these new constitutional provisions gave the executive officers of the national union an opportunity to dispose of many applications for strike assistance before they could receive the sanction of a general vote. In some instances applications were rejected on grounds of technical insufficiency, such as neglect to take a written vote of the members or an insufficient majority. In other instances it was claimed that proper measures had not been taken to secure arbitration or a compromise of the grievances, or that the dispute in question did not involve a principle which called for the support of the entire organization.⁴⁸ In consequence of this conciliatory policy, the secretary of the Bricklayers' and Masons' International Union, in his report for the year 1895, was able to say: "For the first time in twelve years we have passed through the season without a strike of an international character or one legalized by the International Union. * * * It goes to show that the members of our organizations are awakening to the fact that there is a time for strikes as for everything else and strikes in times of depression are not the right thing and ought to be avoided."⁴⁹

During the six years following, the Bricklayers' and Masons' International Union paid out no money for strike purposes. The usual number of applications for permission to strike, with "bills of grievances" attached were received at the general headquarters. They were either rejected by the general executive board or the difficulties were settled by the special deputies appointed for the purpose by the president of the international union. The cost of these special deputies, it is claimed, has been a profitable expenditure for the organization, resulting in a large saving in the payment of strike benefits.⁵⁰

⁴⁸ Report of the Industrial Commission, Vol. XVII, p. 123.

⁴⁹ Thirtieth Annual Report of the President and Secretary of the Bricklayers' and Masons' International Union, 1895, p. 34.

⁵⁰ Thirty-fourth Annual Report of the President and Secretary of the Bricklayers' and Masons' International Union (1899), p. 4.

**STRIKE EXPENDITURES OF BRICKLAYERS' AND MASONS'
UNION PREVIOUS TO 1895.¹**

YEAR.	LOCATION.	WEEKS ON STRIKE	COST.	RATE ASSESSED PER WEEK.	RESULT.
1883	Hamilton,	2	\$1,676.23	.01	Won.
1884	Natick, ²				Settled.
1884	London, ²				"
1884	New Haven, ²				"
1884	Buffalo,	15	21,662.00	.15	Lost.
1885	Cleveland,	6	2,401.00	.25	Won.
1885	Denver,	3	531.06	.12	"
1886	Providence,	20	4,607.00		Lost.
1887	Providence,	21	3,602.06	.05	"
1887	London, ²				Settled.
1888	Fort Wayne, ²				Settled.
1888	Hamilton,	2	1,912.00	.05	Won.
1888	Fall River,	9	1,144.00	.05	Lost.
1888	Ann Harbor,	18	1,762.06	.05	Lost.
1889	Ann Harbor,	21	1,600.06	.05	Lost.
1889	Cleveland,	5	5,717.00	.05	Settled.
1889	Pittsburg,				Settled.
1890	Toronto,	7	11,523.00	.18	Won.
1890	Cincinnati,	1	1,158.61	.05	Won.
1890	Cincinnati,	1	1,158.61	.05	Won.
1890	New Haven,	56	26,148.00	.05	Lost.
1891 } 1892 }	Williamsport,	62	10,561.00	.02	Lost.
1891 } 1892 }	Pittsburg,	49	45,688.00	.05	Won.
1891	Vicksburg,	4	1,160.00	.02	Lost.
1893	Utica,	1	473.00	.02	Won.
1893	Lowell,	21	7,399.00	.03	Lost.
1894	Grand Rapids.	23	12,199.00	.03	Compromised.

¹ Thirty-eighth Annual Report of the Bricklayers' and Masons' International Union, p. 26.

² Settled satisfactorily to the Union. No assessments collected.

A similar policy of avoiding strikes by the employment of special deputies to "assume charge of the collective bargaining of the subordinate unions whenever a breach of industrial peace is threatened,"⁵¹ has grown up in the International Typographical Union. Since the inauguration of an international defense fund in 1889, strike assistance has been granted

⁵¹ Barnett, *Collective Bargaining in the Typographical Union*, in *Studies in American Trade Unionism*, ed. by Hollander and Barnett, p. 165.

to such subordinate local unions as were conducting conflicts approved by the executive council of the general organization. About the same time provision was made for the appointment of officers, known as "organizers," whose special duty consisted in visiting localities where there were disagreements with employers and in endeavoring to bring about a peaceful settlement. While the disbursements for strike benefits have varied greatly from year to year, the amount paid out for expenses of organizers has steadily grown, "showing that there is a constantly increasing endeavor to settle disputes by collective bargaining," rather than permit a resort to strikes.⁵² Thus, from the following table, it can be seen that previous to 1895 the proportion of the defense fund expended annually for organizers did not exceed 14 per cent, whereas, during the years following, it has at times amounted to nearly 50 per cent.⁵³

DISBURSEMENTS FROM THE DEFENSE FUND OF INTERNATIONAL TYPOGRAPHICAL UNION.

YEAR ENDING JUNE 30.	AID TO UNIONS.	EXPENSES OF ORGANIZERS.	PER CENT. OF TOTAL PAID TO ORGANIZERS.
1890	\$11,519.50	\$ 1,346.61	10%
1891	18,227.69	1,812.09	09
1892	48,616.63	2,212.09	04
1893	44,860.72	3,618.28	07
1894	29,959.78	4,874.91	14
1895	21,602.82	3,155.02	13
1896	18,760.58	4,568.77	19
1897 }	45,262.55	12,202.18	21
1898 }			
1899	19,090.74	7,806.81	29
1900	79,608.71	11,699.80	13
1901	13,009.39	10,277.58	43
1902	14,442.67	13,238.48	48
1903	13,106.92	14,622.63	49
1904	54,558.22	15,229.64	22

⁵² Ibid., p. 166.

⁵³ The low proportion in 1900 (13 per cent) and in 1904 (22 per cent) is due to the extraordinary drain upon the defense fund for strike assistance arising out of the participation of the International Union in several costly conflicts of subordinate unions. In 1900,

In other trade organizations, in which the central treasury assumes a large share of the burden of supporting strikes, the same policy of avoiding an undue number of conflicts with employers has come to prevail more and more. Since the executive officers are entrusted with the guardianship of the funds and are, therefore, largely responsible for the financial standing of their organization, they look upon strikes from a business point of view and are cautious about giving their sanction.

the strikes in Kansas City and Pittsburg and the lockout on the "New York Sun" entailed an expense of \$60,000, while in 1904, the strike of the typefounders cost about \$42,000.

CHAPTER II.

BENEFICIARY EXPENDITURE.

With the exception of the organizations of railway employes,¹ national trade unions in the United States were not designed primarily as beneficiary or friendly relief societies. The leaders in the American labor movement, however, early recognized that the payment by the unions of friendly society benefits would, in addition to promoting the social welfare of their members, be a potent factor in assuring strength and stability to the unions. The success of British unions in the field of benevolent insurance was ample evidence that trade unions limited to purposes of trade protection, could never attain the power and usefulness of those affording relief against casualties and emergencies.²

The membership of unions with beneficiary features is less subject to fluctuations, since the members suffer loss in severing their connection.³ The desire to bind the members by stronger ties to the union has been a principal motive in the introduction by American unions of systems of beneficiary relief.⁴ The comparative youth of American unions, however, together with their inferior financial organization, has prevented them from ranking with the British unions in their beneficiary undertakings. While the great English national organizations in most cases afford

¹ Since the "brotherhood" payments are in the nature of insurance rather than benefits, a consideration of them has been purposely excluded from the present study.

² "Protective and benevolent," wrote Adolph Strasser, president of the Cigar Makers' International Union in 1879, "is the secret of the growth and power of the trade unions in England." See *Cigar Makers' Journal*, April 10, 1879.

³ On this point see Report of President Samuel Gompers in the Proceedings of the Third Annual Session of the American Federation of Labor, p. 15.

⁴ The same is true of the British organizations; see Webb, *Industrial Democracy* (new edition), p. 158.

relief to members against sickness, death, old age and unemployment, not more than one-half of the American national unions conduct a system of benevolent relief, and of these the greater number limit the systems to burial and disability benefit.

The formation of mutual benefit associations, participation in which was voluntary, but limited to members of the union, marks the earliest attempt of American national unions to inaugurate beneficiary features.⁵ The plan was first tried by the Iron Molders' Union in 1870, and in later years by the Machinists' and Blacksmiths' Union, the Cigar Makers' International Union, the Granite Cutters' National Union, the Knights of Labor, the International Furniture Workers' Union and the International Typographical Union.⁶ After trials of from two to ten years, all of these unions gave up the plan, either ceasing to pay benefits or introducing a compulsory system maintained by assessments upon the entire membership.

The Death or Disability Benefit.—For several reasons the burial or death benefit⁷ is the most favored of the insurance features considered by national trade unions. In the first place, on account of the large membership of the national unions and the greater extent of territory covered by them, the death rate in a national beneficiary society is far more regular and calculable than in a local society. Secondly, since death is the most easily attested of human casualties, the death benefit is less susceptible to fraudulent practices than other forms of insurance. Coupled with these reasons is the deep-seated dread of a pauper grave that inspires all self-respecting workmen to provide means during life for defraying the cost of their burial.

⁵ Benefit claims in these associations were paid by levying assessments upon the participating members as required.

⁶ In all except the Granite Cutters and the Furniture Workers, only a funeral or death benefit was paid.

⁷ The death benefit is generally combined with a total disability benefit, since permanently disabled members must necessarily withdraw from the trade.

The amount expended by the national unions for death and disability benefits is primarily dependent (1) upon the amount of the benefit and (2) upon the death rate of the members.

The amount of the benefit paid out by each organization is undoubtedly the most important consideration in determining the expenditure required. The sum ordinarily paid at the death of each member is one hundred dollars, though in some of the minor organizations it is as low as fifty dollars,* while in the Glass Bottle Blowers' Association it is five hundred dollars. This disparity in the amount of the benefit naturally gives rise to large differences in the gross expenditures for this purpose.

DEATH-BENEFIT EXPENDITURES OF THE CIGAR MAKERS' INTERNATIONAL UNION.

YEAR.	AMOUNT PAID.	PER CAPITA COST.
1882	\$ 1,874.02	\$0.15
1883	2,690.00	0.20
1884	3,920.00	.33
1885	4,214.00	.35
1886	4,820.00	.20
1887	8,850.00	.43
1888	21,319.75	1.24
1889	19,175.50	1.09
1890	26,043.00	1.06
1891	38,063.35	1.57
1892	44,701.97	1.79
1893	49,458.33	1.83
1894	62,158.77	2.32
1895	66,725.98	2.40
1896	78,768.09	2.80
1897	69,186.67	2.53
1898	94,939.83	3.59
1899	98,993.83	3.41
1900	98,291.00	2.89
1901	138,456.38	4.08
1902	128,447.63	3.47
1903	138,625.91	3.27
1904	151,226.18	3.66

*E. g., in the Watch Case Engravers' International Association, the Amalgamated Glass Workers' International Association and the Piano and Organ Workers' International Union.

The grading of the benefit according to the period of membership is an important element in the cost of a system of death benefits. As each union grows older, the desire to reward old members who have largely contributed to its support, and the hope of inducing the newer members to remain in the organization by offering premiums for long periods of continuous membership result in a transformation of the simple uniform payment into a graded system of death benefits. The effect of this change is a gradual increase each year in the expenditure for death beneficiary purposes. The almost uninterrupted growth in the per capita cost of the death benefit feature of the Cigar Makers' International Union, shown in the preceding table, is to be ascribed chiefly to this reason. When the feature was first put in operation in 1881, provision was made for a uniform payment of \$25 to cover a member's funeral expenses. The next year the amount was increased to \$30, and in 1884, it was fixed at \$50. It remained at this figure until 1890, when the funeral benefit feature was changed into a graded death benefit, ranging from \$50 for members of less than five years' standing to \$500 for those who at the time of death had been members for fifteen years.⁹ At the same time a wife's funeral benefit of \$40 was added, payable to members of more than two years' standing. This feature in 1891 was further extended so as to apply to the funeral expenses of a widowed mother dependent upon a member for support.¹⁰ These extensions have entailed a corresponding increase in expenditure, causing the annual cost per member to advance from fifteen cents in 1882 to a maximum of \$4.08 in 1901.

The recent experience of the Brotherhood of Leather Workers on Horse Goods offers a further illustration of the growth in expenditure due to an extension of the death

⁹ Members of five years standing are entitled to a benefit of \$200; of ten years, \$350; and of fifteen years, \$500; Constitution (1891), Art. XI.

¹⁰ Constitution (1891), Art. XI.

benefit feature. In 1902 this organization adopted the graded form, granting to members after six months' standing an insurance of \$40; after two years' standing, \$60; and after four, five, and eight years' standing, \$100, \$200, and \$300 respectively. In consequence of this change, the expenditure for death benefits has been rapidly increasing, almost equalling for the fiscal year 1904 the total amount paid out during the three years' previous. The cause is apparent from the fact that out of a total membership of 7,758 in July, 1904, over 3,000 were estimated to have been in the union five years, and a considerable number for longer periods. This large proportion of members of long standing promises to make the expense of the graded system "attain terrific proportions."¹¹

The cost of the death benefit feature in the International Association of Machinists is likewise tending to increase steadily in consequence of the introduction of the graded system. In July, 1900 the association adopted a scale of death benefits graded according to the length of membership¹² and ranging from \$50 for members of six months' standing to \$200 for members of two years' standing. Although the length of the membership was computed only from the adoption of the graded system, in April, 1903, less than three years thereafter, the international president reported that ninety per cent of the death claims then being paid were for \$100, the sum granted to members after two years standing.

The second main element in determining the amount of expenditure required for death benefit, viz., the death rate, depends on two factors: (a) the healthfulness of the trade and (b) the age grouping of the membership. It is well known that some trades are more injurious to health and less favorable to length of years than others. In the Glass Bottle Blowers' Association, for example, the average age

¹¹ *Leather Workers' Journal*, July, 1904, Vol. VI, p. 698.

¹² *Machinists' Journal*, Vol. XV, p. 486. See also Vol. XVI, p. 882.

at death is as low as thirty years, in the Stone Cutters' Association it is about thirty-five, and in the International Typographical Union it is about forty-five years.

Since, however, the great mass of trades differ but slightly in healthfulness, the most important element in determining the death rate is the proportion of older to younger members.

Unless the membership grows, the average age of the membership increases and the death rate becomes higher. This has been one of the results of the slow growth in the membership of the Cigar Makers' International Union. It is further indicated by the following comparative statement giving the death rate per thousand members and the average age at death for the years 1890, 1895, and 1900 respectively:

YEAR.	MEMBERSHIP.	NUMBER OF DEATHS.	DEATH RATE PER THOUSAND.	AVERAGE AGE AT DEATH.
1890	24,624	211	8.1	37 yrs. 6 mos.
1895	27,760	348	12.5	39 yrs. 6 mos.
1900	33,955	339	9.5	43 yrs. 6 mos.

The rise in the average age at death here shown is undoubtedly due to the increasing proportion of old members who, even when unable to work steadily at the trade, keep up their standing in the union so as to avail themselves of the various benefits offered by the organization.¹⁸

The experience of the German-American Typographia, a small union that has been declining steadily in membership since 1893, illustrates the same point. During the five years between 1895 and 1899, inclusive, the average yearly per capita cost as shown by the table was \$2.75, whereas

¹⁸ President George W. Perkins of the Cigar Makers' International Union ascribes this higher average length of life to the shorter working day and better conditions of employment; cf. report of President of Cigar Makers' International Union, September, 1901. While some influence is to be ascribed to this cause, it can hardly account for any large part of the increase in the average age at death.

during the five years following it reached \$3.49, an increase of almost thirty per cent.¹⁴

DEATH-BENEFICIARY EXPENDITURE OF THE GERMAN-AMERICAN TYPOGRAPHIA.

YEAR ENDING JUNE 30.	MEMBERS.	AMOUNT PAID IN BENEFITS.	PER CAPITA COST.	AVERAGE PER CAPITA COST IN FIVE YEARS.
1885	559	\$1,983.10	\$3.37	2.39
1886	952	1,000.00	1.14	
1887	1,075	2,125.00	1.97	
1888	1,127	2,910.10	2.58	
1889	1,130	2,093.75	1.85	
1890	1,233	2,400.00	1.95	2.47
1891	1,322	2,950.00	2.23	
1892	1,382	2,251.70	1.63	
1893	1,380	3,046.65	2.20	
1894	1,204	5,251.75	4.30	
1895	1,092	3,835.00	3.51	2.75
1896	1,115	2,637.41	2.36	
1897	1,083	4,572.65	4.22	
1898	1,100	2,900.00	2.36	
1899	1,071	1,365.00	1.29	
1900	1,044	3,275.00	3.14	3.49
1901	1,023	4,185.00	4.09	
1902	997	3,575.00	3.58	
1903	997	3,250.00	3.26	
1904	944	2,255.00	2.39	

Those unions whose membership varies considerably in short periods consequently find the per capita cost of a system of death benefits much less when the membership is increasing and heavier when it is declining. The death and total disability benefit expenditure of the United Brotherhood of Carpenters and Joiners illustrates the effect of rapid fluctuations in membership. Beginning with 1883, the Brotherhood granted, after six months' membership, a funeral benefit of \$250 and a wife's funeral benefit of \$50. In

¹⁴ Partly to reduce expenditure and partly to enable superannuated members to leave the trade by furnishing them with capital to open a small shop or other business, the Typographia has introduced the practice of converting the death-benefit claims of old members into cash payments. The money thus expended (*Auskaufsgelt*) is charged to the account of "death beneficiary expenditure."

1886 these benefits were reduced somewhat by grading them as follows: for a regular beneficiary member, who had been at least six months in the union, a death benefit of \$100; for one of more than two years' standing, \$200. The wife's funeral benefit was fixed at \$25 and \$50 for members of six months' and over two years' standing, respectively. The member was also entitled to a total disability benefit, if the disability was incurred while working at the trade. The disability benefit was fixed at \$100 for members of six months' standing; \$200 after one year, \$300 after three years, and \$400 after five years. During the years immediately following the crisis of 1893 a rapid decline in membership caused a relatively larger number of claims to be presented and a corresponding increase in the per capita cost. During the five years preceding 1893, the average number of claims per thousand members each year was three, and the average yearly per capita cost of benefit \$.87. During the five years following, however, the average number of claims yearly was 11.1 per thousand members, while the average yearly per capita cost rose to \$1.55. A diminution in cost has come about since 1900 through a rapid growth in membership, which rose from 68,436 in 1900 to 167,299 on June 30, 1903, resulting in a corresponding decline of the per capita expenditure from \$1.39 in 1898 to \$.75 in 1903.

The Iron Molders' Union is a type of trade union which has a fairly constant membership. It consequently has had less pronounced variations in the amount of its expenditures for death benefits than the Carpenters. No change was made in the death and total disability benefit of this union (a uniform benefit of \$100), from the inauguration of the feature in 1880 until 1899, when the graded system was adopted. The benefit paid on the death of members in good standing for one year was then fixed at \$100; for five years, \$150; for ten years, \$175; for fifteen years, \$200. This grading has had as yet no appreciable effect upon the expenditure, first, because membership is computed only from

the year 1895, and secondly, because during the last decade, the number of members in the Iron Molders' Union has steadily increased, and the death rate has been kept low.

DEATH AND TOTAL DISABILITY BENEFIT EXPENDITURE
OF THE BROTHERHOOD OF CARPENTERS.

YEAR ENDING JULY 1.	MEMBER- SHIP.	NUMBER OF BENE- FITS PAID.	AMOUNT PAID.	PER CAPITA COST.	NO. OF CLAIMS PER 1,000 MEMBERS.
1883	3,293	6	\$ 1,500.00	\$.45	2.0
1884	4,364	9	2,250.00	.67	2.0
1885	5,789	36	5,700.00	.98	6.2
1886	21,423	54	9,200.00	.68	2.5
1887	25,466	139	16,275.16	.66	5.4
1888	28,416	172	18,750.00	.66	6.1
1889	31,496	224	25,575.00	.90	6.0
1890	53,769	254	32,267.49	1.60	4.7
1891	56,937	374	44,732.65	2.80	6.6 —
1892	51,313	620	72,613.35	1.38	12.0 —
1893	54,121	538	64,684.45	1.19	9.9
1894	33,917	462	59,972.50	1.77	13.6
1895	25,152	387	51,311.75	2.04	11.4
1896	29,691	301	39,690.35	1.33	10.1
1897	28,269	303	40,229.45	1.42	10.7
1898	31,508	332	43,953.99	1.39	10.6 —
1899	(1)	(1)	(1)		
1900	68,463	(1)	105,123.48	1.54	
1901	87,148	(1)	(1)		
1902	122,568	(1)	101,349.40	.83	
1903	167,229	1,202	132,539.40	.75	7.5
1904	161,205	1,562	184,271.45	1.14	9.7

¹ No record.

The table on the next page shows the receipts and expenditures, together with the monthly per capita income of the Death and Total Disability Fund in the Iron Molders' Union as reported by the secretary from 1880 to 1902.

The introduction of graded death benefits tends to increase the expenditure of the unions by retaining in the unions, during periods of depression, many members who without the inducement thus held out would withdraw. The result is, an increase in the average age of membership and in the death rate.

DEATH BENEFIT FUND OF THE IRON MOLDERS' UNION

DATE.	INTERVAL.	RECEIPTS.	EXPENDITURES.	MONTHLY PER CAPITA REVENUE.
1880-1882	2 years.	\$16,567.00	\$12,000.00	\$.07½
1882-1886	4 "	32,429.92	32,400.00	.07½
1886-1888	2 "	22,182.01	16,350.50	.10
1888-1890	2 "	20,988.05	21,919.00	.08
1890-1895	5 "	54,179.19	58,512.90	.064
1895-1899	4 "	54,631.56	40,499.00	{ .064 and a \$2.00 initiation fee.
1899-1902	3 "	111,916.13	75,631.36	

Variations from year to year in the cost of the death and total disability benefit is much more pronounced in the small national trade unions having but a few thousand members than in the large unions. These disparities are due to fluctuations in the death rate. This is well illustrated in the table showing the death expenditure of the German-American Typographia for death benefits. This small, but well conducted, organization has been paying out regularly since 1885 a members' funeral benefit of \$200, and a wife's funeral benefit of \$50. Though having a remarkably steady membership, its expenditures for death benefits fluctuate widely from year to year. Thus, in 1899, the cost amounted to \$1,365, or \$1.29 per member, whereas the next year, with but a slight decrease in membership, it rose to \$3,275, or \$3.14 per member. In 1901 the cost was even higher, the benefits paid out aggregating \$4,185, or \$4.09 for each member in the union. Owing to the fact that the membership in the Typographia has been steadily decreasing since 1892, variations in the yearly death rate and the consequent difficulty in financiering the death benefit feature threaten to be even more pronounced in the future.

As the cost of the benefits increases in each organization, the desire to limit expenditure has led to the imposition of special qualifications for membership. The constitution of the Brotherhood of Carpenters and Joiners, for example, provides that a beneficiary member must be in the union six

months before his heirs are entitled to receive a benefit; that he must have been at the time of his admission not less than twenty-one or over fifty years of age; and that he must not be "affected with any disease or complaint likely to endanger his health or cause permanent disability."¹⁸ The age limit for beneficiary members in the Brotherhood of Painters, Decorators and Paperhangers, in the Pattern Makers' League, and in the Cigar Makers' Union is likewise fixed at fifty years. In the Boot and Shoe Workers' Union, however, the limit is sixty years for men not suffering from dangerous and incurable diseases. The difficulty of enforcing these provisions because of the failure of the local unions to carry them out faithfully often entails an unduly large expenditure for the payment of death benefit claims, and is the cause of much complaint from the national officers.¹⁹

The Sick Benefit.—Next to funeral or death benefits, the benevolent feature most favored by American trade unionists is the sick benefit. From an early period, however, this form of relief has been administered independently by the local organizations, and in not more than a dozen instances has it been taken over by the national unions. Sick relief, to be effective, must be paid immediately. To pay the benefit from the central treasury would entail delays through correspondence, verification, and other prescribed forms. Accordingly, even in the organizations that have adopted a national sick benefit the local branches are permitted to retain a share of the general fund in order to enable them to administer directly the relief claimed by their sick members. The "nationalized" system of finance of the Cigar Makers' International Union and of the German-American Typographia, in which the general funds are held "in trust" by the locals, is peculiarly adapted to the payment of sick relief. Likewise,

¹⁸ Constitution of the Brotherhood of Carpenters and Joiners (1903), sec. 92. Members not fulfilling these conditions are classed as "apprentice or non-beneficiary" and are entitled to a funeral benefit of but fifty dollars. The Cigar Makers admit non-beneficiary members upon the payment of half dues.

¹⁹ See pp. 99, 100 and 141.

in the Iron Molders' Union and in the Leather Workers on Horse Goods, both of which maintain central treasuries and separate national funds, the administration of the national sick benefit feature is largely given over to the local branches. Each local retains a proportionate share of the national sick benefit fund, and pays sick benefits from its own treasury. The local is later reimbursed by the national union.¹⁷

The Cigar Makers' International Union was the first American national trade union to grant sick relief to its members. The constitution of 1881 made provision for a sick benefit of three dollars per week to be granted to any member more than six months in the union who should become sick and "unable to attend to his or her vocation * * * provided such sickness or disability shall last at least one week and shall not have been caused by intemperance, debauchery or immoral conduct."¹⁸ The payment was limited to eight continuous weeks; thereafter, for eight weeks longer, the sick member was entitled to \$1.50, but under no circumstances could the relief extend over more than sixteen weeks during a single year. In 1884 the weekly benefit was increased to \$4, and several years later to \$5 for the first eight weeks and to \$3 for the remaining period. In 1891 provision was made that \$5 might be paid for thirteen continuous weeks. At present, this is the maximum period during which a member is entitled to sick relief. At the same time, the period of membership required for eligibility to the benefit was raised from six months to one year.¹⁹ As in the case of death benefit, this liberalizing process has led to a proportionate increase in the yearly per capita cost of sick relief, as shown in the following table:

¹⁷ Constitution of the United Brotherhood of Leather Workers on Horse Goods, Art. XII, sec. 6. The chief fiscal advantage in paying sick relief from the general funds lies in the equalization of the expense among the local branches. Thus the burden of the cost is equalized for the whole membership.

¹⁸ Constitution of the Cigar Makers' International Union, 1880, Art. XII.

¹⁹ Constitution (1891).

**SICK-BENEFIT EXPENDITURE OF THE CIGAR MAKERS'
INTERNATIONAL UNION.**

YEAR.	AMOUNT PAID.	PER CAPITA COST.	YEAR.	AMOUNT PAID.	PER CAPITA COST.
1881	\$3,987.73	\$.44	1893	\$104,391.83	\$3.86
1882	17,145.29	1.50	1894	106,758.37	3.99
1883	22,250.56	1.69	1895	112,567.06	4.04
1884	31,551.50	2.66	1896	109,208.64	3.87
1885	29,379.89	2.45	1897	112,774.63	4.13
1886	42,225.59	1.71	1898	111,283.60	4.20
1887	63,900.88	3.11	1899	107,785.07	3.72
1888	58,824.19	3.42	1900	117,455.84	3.46
1889	56,519.94	3.39	1901	134,614.11	3.66
1890	64,660.47	2.63	1902	137,403.35	3.71
1891	87,472.97	3.61	1903	147,054.56	3.74
1892	89,906.30	3.59	1904	163,226.18	3.90

A noticeable feature in the sick benefit expenditures of the Cigar Makers is the high cost of sick relief from 1894 to 1899, the average per capita expense for these years being almost ten per cent above the average for the five years following. This increase in cost can be mainly ascribed to the general trade depression following the crisis of 1893, since in the Cigar Makers as in other organizations the number of members on the sick list is larger in dull times than during periods of prosperity.

This tendency for sick beneficiary expenditure to increase during dull seasons is further illustrated by the experience of the Iron Molders' Union. Since January 1, 1896, the organization has been paying a national sick benefit of five dollars per week, limited to a period of thirteen weeks in one year. The rapid and steady increase in membership following the inauguration of this feature has resulted in enlarging the disbursements from the sick benefit fund without increasing the per capita cost. During the first six months of 1903, however, there was a marked growth in expenditures,²⁰ which was attributed both to the severity of

²⁰ Thus, from January 1 to June 30, 1903, there was paid out \$118,781.75, or about two-thirds of the total amount paid during the year previous.

the winter and the depression in the iron industry. As with the Cigar Makers, either good times insure better health to the iron molder, or it must be inferred that "the benefits are paid out during times of depression in instances where the member is suffering from idleness rather than from diseases that would render him unable to labor."²¹

SICK-BENEFIT EXPENDITURES OF THE IRON
MOLDERS' UNION.

YEAR.	MEMBERSHIP. ¹	COST.	PER CAPITA COST.
1896	20,920	\$ 38,510.00	1.36
1897	23,003	36,720.00	1.59
1898	25,072	37,710.00	1.50
1899	28,941	57,495.00	1.98
1900	41,189	102,936.00	2.57
1901	48,115	118,515.00	2.47
1902	54,251	134,116.00	2.32
1903	64,472	197,365.00	3.06
1904	76,416	198,214.25	2.60

¹ As reported on January 1st of each year. *Iron Molders' Journal*, Vol. XXXIX, p. 639.

The average per capita cost per year of the sick benefit of the Iron Molders is somewhat less than in the Cigar Makers, barely exceeding three dollars per year. At times it has even been considerably less.²² Thus, between January 1, 1896, and June 1, 1899, the average cost per member in good standing was 5½ cents per week. During the next three years, the average cost each week per member was 5¾ cents, or \$2.91 per year. The income of seven cents per week per member allotted to the sick benefit fund has been found sufficient at all times to meet the expense of sick relief.²³

²¹ *Iron Molders' Journal*, August, 1904, Vol. 40, p. 590.

²² See the reports of the Financier for the terms ending June 1, 1899, and June 1, 1902, in *Iron Molders' Journal*, Vol. 35, No. 9, p. 48, and *ibid.*, Supplement, Sept., 1902, p. 644.

²³ There is generally an excess of expenditures over receipts during the winter months, but this seasonable deficit is overbalanced by the surplus accruing during the spring and summer.

The sick relief of the German-American Typographia estimated on a per capita basis, is more costly than that of any other American national trade union, the average yearly expense during the twenty years from 1885 to 1904, inclusive, amounting to \$4.24 cents per member. This is the result mainly of the liberal provisions for sick relief contained in the constitution of the German-American Typographia, whereby a member unable to work on account of sickness is entitled to a benefit of \$5 per week for fifty weeks, and thereafter for fifty weeks longer to a benefit of \$3 per week, aggregating in all \$400. Members drawing this full amount must forego further claim to sick relief during an interval of two years. Moreover, since the average age of membership is higher than in the other unions, morbidity is naturally more prevalent and expenditure for sick relief even larger.²⁴

SICK-BENEFIT EXPENDITURE OF THE GERMAN-AMERICAN
TYPOGRAPHIA.

YEAR ENDING JUNE 30.	MEMBERSHIP.	AMOUNT PAID.	PER CAPITA COST.	AVERAGE PER CAPITA COST FOR FIVE YEARS.
1885	559	\$2,444.85	\$4.37	\$3.49
1886	952	2,751.35	2.89	
1887	1,075	3,034.60	2.82	
1888	1,127	3,495.90	3.10	
1889	1,130	4,831.50	4.28	
1890	1,233	5,361.36	4.35	4.83
1891	1,322	6,175.88	4.67	
1892	1,382	6,790.60	4.91	
1893	1,380	6,051.65	4.38	
1894	1,204	7,004.07	5.85	
1895	1,092	5,098.98	4.67	4.34
1896	1,115	5,426.65	4.87	
1897	1,083	4,681.25	4.32	
1898	1,100	3,983.85	3.62	
1899	1,071	4,500.35	4.21	
1900	1,044	4,651.65	4.46	4.27
1901	1,023	4,316.81	4.12	
1902	997	4,977.98	4.99	
1903	997	3,767.93	3.80	
1904	994	2,945.68	2.97	

²⁴ The sick benefit, however, is often replaced by the out-of-work pay. See page 92.

Besides the Cigar Makers, the Iron Molders, and the Typographia, other national trade unions that have more recently inaugurated systems of sick relief are the United Association of Journeymen Plumbers (which during the fiscal year, 1903, paid out \$24,650, or \$1.37 per capita for this purpose),²⁵ the Brotherhood of Leather Workers on Horse Goods (which paid out from July 2, 1903, to May 30, 1904, \$16,940, or \$2.18 per member),²⁶ the Boot and Shoe Workers' Union, the Piano and Organ Workers' International Union, the Journeymen Barbers' International Union, and the Pattern Makers' League.²⁷ The provisions relating to the payment of the benefits in these unions do not differ materially from those already considered.

From the relatively small number of national unions that have undertaken to grant sick pay to individual members, it can be seen that this function is still regarded as an activity of the local unions. The fact that the amount of the benefit does not ordinarily exceed five or six dollars per week, and that a large reserve is not required to insure prompt and uninterrupted payment enables the local branches to afford sick relief to their members with little difficulty. However, it has sometimes happened that local unions have become bankrupt through an excessive liberality in paying benefits, thereby occasioning a financial loss to the national organization. This experience has been the source of frequent complaint on the part of the national officers. Thus in 1892, the general secretary-treasurer of the Brotherhood of Carpenters stated that in a number of instances local lodges were granting excessively large benefits to their members without properly limiting the period of payment. "This," he said, "ought to be checked, for through the impoverishment of

²⁵ Proceedings of the Fourteenth Convention of Journeymen Plumbers, etc., 1904, Official Journal, October, 1904, p. 43.

²⁶ Leather Workers' Journal, July, 1904, Vol. VI, p. 707.

²⁷ The Constitution of the United Garment Workers contains provisions regarding the payment of sick benefits by the locals, but no funds of the general treasury are expended for that purpose; see Constitution of the United Garment Workers, Art. XX.

the locals, the general organization suffers in the decimation of membership and final loss of these unions."²⁸ The president of the International Association of Machinists in 1901 made a similar complaint. "Our local lodges," he said, "to a very great extent are endeavoring to pay very high weekly benefits, which in many instances necessitates their falling in arrears to the Grand Lodge."²⁹

The conditions affecting the cost of sick relief differ but slightly from those already noted as affecting death beneficiary expenditure. In the administration of sick relief, however, the opportunity for presenting fraudulent claims is much more pronounced. It has already been shown that in both the Cigar Makers' and the Iron Molders' Unions the per capita expenditure rose considerably during the dull season of the trade. The same is true of other national unions conducting systems of sick relief.³⁰ The sick benefit thus often takes the place of an out-of-work benefit, since sickness is easily feigned and indifferent physicians and sympathetic local officers mindful of the unemployed member's material needs, are willing to grant the claim, especially when they know that the burden devolves upon the general organization, and only in very small measure upon the local itself.

Out-of-work Benefit and the Travelling Loan.—A third kind of benevolent relief, which prevails largely among British trade unions, but which has been undertaken by but a very small number of American labor organizations, consists of the out-of-work benefit and the travelling loan. While serving the highly useful purposes of providing main-

²⁸ Proceedings of the Seventh General Convention of the United Brotherhood of Carpenters and Joiners (1892), p. 20. At this time the General Secretary-Treasurer estimated that about seventy-five per cent of the local lodges of the Carpenters were paying out sick benefits of from \$4 to \$6 per week, limited to a period of twenty-six weeks.

²⁹ Machinists' Journal, June, 1901, p. 469.

³⁰ Leather Workers' Journal, July, 1904, p. 608; also Proceedings of the Tenth Convention of the Journeymen Barbers' International Union (1901), p. 68.

tenance for members who lack employment and of aiding those who wish to travel in search of work, both of the features involve a risk and an expenditure which American trade organizations have not yet been prepared to assume.

Their value and importance as a means of promoting the aims of trade unions and of strengthening the ties that bind individual members to the organization, however, has not been wholly ignored. It has been constantly urged by those who advocate the payment of these forms of relief that nothing is more effective for the maintenance of a standard rate of wages. By offering a member sufficient relief to sustain him while unemployed, the motive which impels him to accept a lower wage than the standard rate is removed and his desertion made less likely. "A starving man," wrote President Adolph Strasser of the Cigar Makers' Union in 1879, "has no conscience. He will accept any payment for his work in order to provide for his sustenance."⁸¹ Former Secretary-Treasurer P. J. Maguire, of the Brotherhood of Carpenters, urged the adoption of the out-of-work benefit on similar grounds. "The wages of those who continue in employment," he said, "can only be kept up to a living standard by a strong organization and the payment of an out-of-work benefit. Unemployed men cannot live on sentiment. However strong unionism may be, self-preservation is the first law of nature and must be recognized as such."⁸² Despite the force of these arguments, the rank and file in American unions still refuse to give to their national organizations the financial power necessary to enable them to administer this form of benevolent relief. As yet, but two unions, i. e., the Cigar Makers' and the German Typographia have successfully adopted a national out-of-work benefit, while a very few others conduct a national system of travelling loans.

⁸¹ Cigar Makers' Journal, April 10, 1879; also Webb, *Industrial Democracy* (new edition), p. 161.

⁸² The Carpenter, August, 1894, p. 3.

The out-of-work feature of the Cigar Makers' International Union was inaugurated in 1889, the amount of the benefit being fixed at \$3 for one week and 50 cents for each additional day of unemployment, and limited to six continuous weeks²² for each member. The system has been successful from the outset. During the first year of its operation only 2,286 members, or less than one per cent of the total membership, were recipients of the relief, at an aggregate cost to the organization of \$22,720.50, or 92 cents per capita. For the two years following, the result was even more favorable in consequence of the prosperous condition of the trade. In 1891, the per capita cost was 88 cents per member and in 1892, 70 cents. The general business depression during the four years that followed, however, occasioned an enormous growth in the expenditure,²⁴ the average yearly per capita cost of the years 1893-96 being six times as great as that of the preceding three years.²⁵

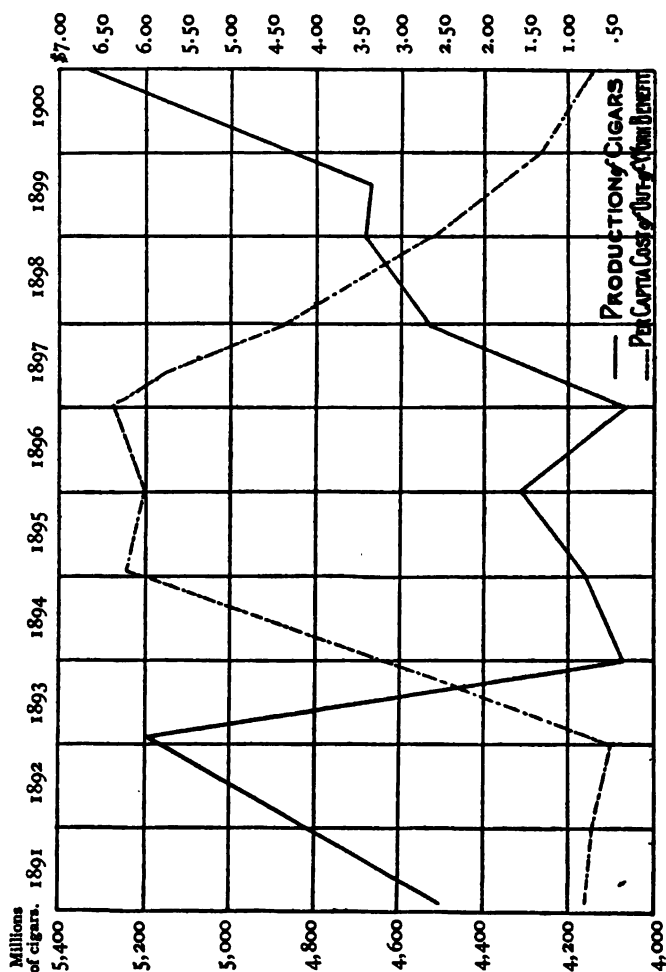
²² No member was entitled to the benefit who had not been in the union two years, neither could more than \$54 be paid to one individual during a single year; see Constitution of the Cigar Makers' International Union, secs. 117-132.

²⁴ At the time of the adoption of the out-of-work benefit by the Cigar Makers, it was admitted by those who favored the measure that in dull times the expense would be so great as to necessitate the levying of special assessments upon the employed part of the membership to keep up the payments; see Proceedings of the Nineteenth Session of the Cigar Makers' International Union (1891), p. 5.

²⁵ The expenditure for the out-of-work benefit since 1892 has been as follows:

YEAR.	EXPENDITURE.	PER CAPITA COST.
1892	\$ 17,460.75	\$.65
1893	89,402.75	3.34
1894	174,517.25	6.27
1895	166,377.25	5.99
1896	175,767.25	6.43
1897	117,474.40	4.46
1898	70,197.70	2.65
1899	38,037.00	1.31
1900	23,897.00	.70
1901	27,083.71	.80
1902	21,071.00	.67
1903	15,558.00	.37
1904	29,872.50	.72

That the cost has continued to bear a similar close relation to the conditions of the cigar trade is illustrated by the accompanying chart.



The table of yearly expenditures for out-of-work benefits of the German-American Typographia illustrates further the close relation that this relief bears to trade conditions.

Thus, during the year ending June 30, 1894, the benefits paid to unemployed members aggregated \$17,262.50, or more than \$14 for each member in the organization, whereas during the preceding year, with a slightly larger membership the total expended for the purpose had been \$7,835, or \$5.25 per member. This disparity was due both to the trade depression brought on by the crisis of 1893 and to the displacement of workmen caused by the introduction of type-setting machines.⁸⁶ The partial readjustment of trade conditions during the years following has tended to keep the expenditures below the high figure of 1894, and since that time, the cost, though higher than formerly, has never exceeded \$10.30 per member.

COST OF OUT-OF-WORK BENEFIT OF THE GERMAN-AMERICAN TYPOGRAPHIA.

YEAR ENDING JUNE 30.	MEMBERSHIP.	AMOUNT PAID.	PER CAPITA COST.	AVERAGE PER CAPITA COST FOR FIVE YEARS.
1885	559	\$1,118.90	\$2.00	\$2.28
1886	952	1,453.08	1.53	
1887	1,075	1,240.10	1.15	
1888	1,127	1,315.13	1.17	
1889	1,130	6,281.50	5.56	
1890	1,233	4,315.00	3.50	6.92
1891	1,322	6,067.00	4.51	
1892	1,382	9,067.00	6.56	
1893	1,380	7,835.00	5.67	
1894	1,204	17,262.50	14.25	
1895	1,092	9,464.20	8.66	8.34
1896	1,115	7,812.00	7.00	
1897	1,083	8,485.00	7.83	
1898	1,100	8,603.00	7.82	
1899	1,071	11,135.00	10.39	
1900	1,044	8,703.00	8.34	6.69
1901	1,023	6,716.00	6.57	
1902	997	7,839.00	7.86	
1903	997	4,846.00	4.86	
1904	944	5,785.00	5.82	

The higher cost of the out-of-work benefit in the Typographia over that of the Cigar Makers is due both to the more

⁸⁶ See Hugo Miller, 25-Jährige Geschichte der Deutsch-Americanische Typographia, p. 45.

liberal provisions of the benefit, and to the higher percentage of unemployed members in its ranks. The weekly pay is fixed at \$6 per week, twice that paid by the Cigar Makers, and each unemployed member is entitled to an aggregate of \$96 during a year. Owing to the introduction of the linotype in the printing trade, a number of old hand compositors in the union, unable to operate the new machines, have found it impossible to obtain steady employment, and consequently draw each year the full limit of the out-of-work pay. In this way the out-of-work benefit of the Typographia takes the place of a pension for superannuated members. The majority of those drawing the relief "have already been on the unemployed list many years and should in fact be classed as superannuated rather than temporarily unemployed printers."⁸⁷ Similarly among the Cigar Makers, even during favorable trade seasons, the out-of-work benefit serves as a support to those members who are so advanced in age as to be unable to work steadily at the trade.⁸⁸

The heavy cost of an out-of-work feature during times of industrial depressions makes its successful financial operation dependent upon the maintenance of a large reserve fund or the levy of heavy special assessments on the membership. Thus, during 1893 and 1894, the Typographia, in order to meet the claims of unemployed members, after exhausting the reserve on hand, was compelled both to increase the regular membership dues and to levy, in addition, two special assessments, amounting in each case to one dollar per member.⁸⁹ The Cigar Makers during the same period were saved from the necessity of making assessments only by their large surplus and this fund was reduced from \$503,827.20 on January 1, 1893, to \$177,033.12 on January 1, 1897.

⁸⁷ Letter of Mr. Hugo Miller, Secretary-Treasurer of the German American Typographia, to the author.

⁸⁸ Cigar Makers' Journal, April, 1904, p. 8.

⁸⁹ It must be remembered that during periods of trade depressions when work is slack and wages low, the members are less able and less willing to pay higher dues or extra assessments.

TRAVELLING LOAN SYSTEM OF CIGARMAKERS' INTERNATIONAL UNION.

YEAR.	LOANS.	PER CAPITA COST.	COLLECTIONS.	LOANS OUTSTANDING.
1880	\$ 2,808.15	\$.90		
1881	12,747.09	1.27		
1882	20,386.64	1.78	\$ 8,547.67	\$ 9,951.81
1883	37,135.20	2.81	24,665.42	21,630.35
1884	39,632.08	3.34	33,176.93	30,665.70
1885	26,683.54	2.22	22,236.74	35,122.00
1886	31,835.71	1.29	30,151.62	36,806.59
1887	49,281.04	2.40	38,273.93	47,813.70
1888	42,894.75	2.49	36,661.49	54,046.96
1889	43,540.44	2.48	41,097.68	56,489.72
1890	37,914.72	1.54	41,904.80	52,499.64
1891	53,535.73	2.21	45,270.63	60,764.74
1892	47,732.47	1.91	49,572.75	58,924.46
1893	60,475.11	2.24	41,255.59	78,143.98
1894	42,154.17	1.57	37,322.78	82,975.38
1895	41,657.16	1.50	36,728.98	87,904.55
1896	33,076.22	1.18	29,679.28	88,601.20
1897	29,067.04	1.06	31,767.33	75,542.11
1898	25,237.43	.89	30,758.10	83,080.53
1899	24,234.33	.84	31,772.75	75,542.11
1900	33,238.29	.98	33,765.34	75,044.50
1901	44,652.29	1.31	39,511.29	80,155.04
1902	45,314.05	1.22	47,144.04	78,325.95
1903	52,521.41	1.33	48,732.81	81,114.55

The "travelling loan" does not bear so close a relation to trade conditions as the out-of-work benefit. The purpose of this device is to equalize the labor demand in all sections of the country by enabling unemployed members to move to localities where work can be procured. Moreover, in all organizations except the Typographia, the benefit is not a gift but a loan which the borrower must repay when he secures employment, usually in instalments of a fixed percentage of his earnings.⁴⁰ The union loses only the unpaid loans. In the Cigar Makers' International Union, which in this as in other benevolent features has taken the lead among American unions, the repayments of loans during certain years—notably from 1897 to 1900 inclusive—have exceeded

⁴⁰ The Cigar Makers and the Typographia limit loans to \$20; the Leather Workers on Horse Goods to \$21.

the sums borrowed. From January 1, 1882, down to January 1, 1904, the total amount granted in travelling loans from the union's funds aggregated \$877,555.34, and at the end of the period only \$81,114.55, or 9.2 per cent, remained unpaid. In the Leather Workers on Horse Goods, the proportion of outstanding loans on June 1, 1904, to the total amount paid out since 1898, when the system was inaugurated, equalled 29.5 per cent.⁴¹

The travelling loan and the out-of-work benefit are subject to the same abuses at the hands of local officers as the sick benefit. The grant of such relief, therefore, has only been successful in the case of national unions possessing a high order of administrative efficiency and discipline, as well as an ample reserve fund. In a large number of organizations the loan system is conducted independently by the local lodges at their own expense.⁴² The national organizations in such cases enforce collections by requiring each local to collect and forward the loans granted to members by other locals. Yet, owing to the lack of discipline, this function is exercised in some unions with the utmost difficulty, resulting in constant strife and annoyance. For example, in the International Association of Machinists, an organization possessing a fairly well developed and efficient administration, during the two years ending April 30, 1901, more than \$2,500 of the loans advanced by locals aggregating \$6,947, could not be collected.⁴³ During the year ending April, 1903, the showing was even worse, for out of the sum of \$10,502.50 advanced, less than one-half was repaid at the end of the term.⁴⁴ This difficulty has led the president of the Machinists to urge the abolition of the local loan sys-

⁴¹ The total paid out was \$14,390.50, the amount still outstanding, \$4,887.50. *Leather Workers' Journal*, July, 1904.

⁴² The travelling loan is probably the earliest form of relief undertaken by organizations of workmen.

⁴³ *Machinists' Journal*, Vol. XIII, p. 470.

⁴⁴ *Ibid.*, Vol. XV, p. 482. The international president estimated that during the year ending April, 1903, more than one thousand members "have either been suspended, expelled or dropped from the rolls for non-payment of loans advanced them."

tem on the ground that it causes harmful strife between the lodges, and results in a large number of suspensions of members, who, rather than repay the travelling loans advanced them, prefer to leave the union.

The experience of the Glass Bottle Blowers' Association in enforcing the collection of local travelling loans has been much the same. In 1892 a resolution was passed in the general convention of the Association directing all local branches receiving travelling cards⁴⁵ of members owing money to another branch, to collect for the crediting branch twenty-five per cent of the members' earnings.⁴⁶ The endeavor to enforce this rule proved so annoying that in 1895 a resolution was introduced in the convention urging the branches to adopt some radical measure "to prevent the Association from becoming a collecting agency."⁴⁷ The locals, however, have failed to take such measures, and the system still continues to be troublesome to the national officers, who have repeatedly urged its complete abolition.⁴⁸

From the foregoing analysis of the different forms of trade union beneficiary expenditure, it is apparent that with but few exceptions the function of benevolent relief has not yet reached a high stage of development in American labor organizations. Only one half of the national unions undertake to pay any form of benefit and of these not more than a dozen have done so for more than a decade. It is consequently difficult to estimate the position of such expenditure for American trade unions as a whole. According to the annual report made to the American Federation of Labor by fifty-nine of the affiliated national unions, there were paid out for benefits in 1904-5 by these unions, the following sums: death benefits, \$742,421.38; sick benefits,

⁴⁵ It is the practice to have the amount due a local from a member written on the back of this "travelling" or union card.

⁴⁶ Proceedings of the Glass Bottle Blowers' Association, Sixteenth Session (1892), p. 61.

⁴⁷ *Ibid.*, Nineteenth Session, p. 107.

⁴⁸ *Ibid.*, Twenty-third Session, p. 31.

\$582,874.13; travelling benefits, \$62,989.71; out-of-work benefits, \$85,050.72.

The fact that the benefits paid out by local unions from their own funds are not included in these sums, renders the table of but slight value as a measure of the aggregate expenditure of American unions for beneficiary purposes. The local branches of many national organizations, as we have seen, assume entirely the function of benevolent relief, without aid or direction from the central authority; while others furnish benefits supplementary to the amounts paid by the central treasury. What these local expenditures aggregate each year, we have no means of telling with exactness, since complete data are unavailable; but there is reason to believe that it greatly exceeds the sum paid out by the national unions.⁴⁹ We have already shown that such features as the sick benefit, the out-of-work pay and the travelling loan are still regarded in most organizations as properly belonging to the local unions, while only the payment of the funeral benefit and disability insurance are deemed within the functions of the national body.

The unions spending most for beneficiary purposes are those which have advanced farthest in concentrating their functions in the national organization. Thus, the German-American Typographia, the Cigar Makers' International Union, the Iron Molders' Union, and the Brotherhood of Leather Workers on Horse Goods possess centralized systems of finance far superior to the ordinary American national union.

The tendency toward centralization of the government of national unions, however, together with the gradual increase of their revenues is resulting in larger activity in the field of benevolent, as well as of protective insurance. Some evidence of this can be had from the following table showing

⁴⁹ Thus fully seventy-five per cent of the locals of the Bricklayers' and Masons' International Union, and a still larger proportion of local unions of carpenters and machinists pay out funeral benefits to their members.

the proportion of beneficiary expenditure to total expenditures in ten leading American national unions:

UNION.	YEAR.	TOTAL EXPENDI- TURE.	BENEFICI- ARY EX- PENDITURE.	PERCENT- AGE OF TOTAL.
German-American Typographia.	1904	\$ 18,506.03	\$ 11,266.53	60.8
Cigar Makers' Inter. Union.....	1903	618,635.94	374,968.03	57.2
Iron Molders' Union	1904	592,871.05	252,000.65	42.4
Leather Workers on Horse Goods	1904	75,651.45	28,555.25	37.7
Inter. Typographical Union.....	1904	240,005.00	94,595.00	37.3
United Association of Plumbers..	1903	227,241.74	60,755.00	26.9
Bro. of Painters and Decorators.	1904 ¹	81,867.06	21,925.00	26.8
Boot and Shoe Workers' Union.	1902-04	462,175.90	123,080.40	26.5
United Brotherhood of Carpen- ters and Joiners	1903	941,325.31	125,864.40	13.3
Inter. Association of Machinists.	1904	312,481.60	23,751.00	13.2

¹ Six months, ending June 30.

The tendency of beneficiary expenditure to increase with the gradual centralization of these unions is illustrated by comparing the proportion of union funds expended for benefits in former years, with what is being paid out at present. The Cigar Makers in 1883 out of a total expenditure of \$151,249.39, spent \$62,075.76 or slightly over 40 per cent for benevolent relief. In 1903 the proportion was 57.2 per cent. Similarly in the Iron Molders' Union, beneficiary expenditure has grown from 30 per cent in 1883 to more than 42 per cent in 1904.

The growth has been even more pronounced in the more recently organized unions. Thus, the expenditures of the International Association of Machinists for funeral benefits for the year ending March 31, 1901, amounted to \$5,650 or about 6.6 per cent of the total expenditure. During the year ending May 31, 1904, the ratio was 13.2 per cent, just double that of 1901. In the Leather Workers on Horse Goods in 1898, the beneficiary expenditure was 22 per cent of the total expenditure, whereas in 1904 it reached 40 per cent. In no instance has this steady increase in expenditure occasioned a decline in disbursements for trade and defen-

sive purposes. On the contrary, the same tendency toward centralization of functions in the national unions has likewise occasioned a wider application of the protective principle and a constant enlargement of the defense fund budget.

Several serious financial difficulties attend the operation of systems of benevolent relief by national trade unions. In the first place, there is an utter absence of scientific bases in adjusting income to risk or expenditure. As a general rule, the apportionment of revenues to the beneficiary funds in trade unions is little more than guess work, and is only accomplished with some degree of accuracy after many experiments and repeated changes.⁵⁰ A change in the number and character of the membership often results in a serious drain upon the funds set aside for beneficiary purposes just as a disturbance in trade conditions may result in an exhaustion of the defense fund. Under such circum-

⁵⁰ The experience of the Iron Molders' Union, which probably has suffered less from fluctuations in membership or disturbance in trade conditions than most other national unions, may be taken as typical. When a funeral and total disability benefit of \$100 was instituted in 1880, it was estimated that all claims arising therefrom could be met by a monthly assessment of seven and one-half cents per member. This calculation at first was approximately correct, but in 1885 the death rate began to increase slightly, necessitating an increase in the monthly assessment to ten cents per member. This soon proved more than sufficient for the purpose, the expenditures from the fund during the next two years amounting to less than two-thirds of the income. The convention of 1888, deeming a readjustment necessary, reduced the monthly assessment to eight cents per month per member. Owing to a steady growth in membership during the two years following, there was still an excess of income over expenditure, permitting a further reduction in the monthly revenue of the death benefit fund to six and four-tenths cents per member. This reduction was excessive; during the years following the receipts of the fund were barely sufficient to meet disbursements and during the latter part of the term of 1895 there was an actual deficiency of almost \$2,000. To prevent the fund from thus being again overdrawn, the convention of 1895 added a two-dollar initiation fee as subsidiary revenue. A rapid increase in membership during the next six years caused an extraordinary yield from this source, making possible the transformation of the uniform benefit of \$100 into a graded benefit. Should there be a rapid decline in the number of initiations at any time, however, the fund will undoubtedly again suffer a deficit; see Sakolski, *Finances of the Iron Molders' Union*, in *Studies in American Trade Unionism*, edited by Hollander and Barnett.

stances, either the scale of the benefit must be reduced or the revenue enlarged to meet the increased cost. The latter is the usual course adopted since a reduction in the scale of beneficiary features is generally considered a backward step and causes dissatisfaction and complaint among the membership.

The principal drawback to the maintenance by the national unions of reserves for beneficiary purposes is the inadequacy of their financial resources. The low per capita dues in most instances are barely sufficient to meet all rightful claims to benefits during favorable seasons, and do not permit the accumulation of a surplus to be used during times of industrial stagnation or unfavorable trade conditions. Not being fortified financially in such emergencies the unions are almost certain to fall behind in their obligations. The period of hard times following the crisis of 1893 was replete with instances of this form of delinquency. In the Stone Cutters' Association, for instance, during the two years, 1894 and 1895, the entire receipts of the general treasury did not average more than \$600 per month, whereas the death benefit claims alone amounted to \$1,000.⁵¹ Similarly, in the Brotherhood of Carpenters and Joiners,⁵² and in the German Typographia during the same period, the regular income was insufficient to pay off beneficiary claims. Consequently it was necessary for these unions to supplement the regular membership dues by special assessments.

A further source of difficulty connected with the conduct of beneficiary relief by American trade unions is the lack of administrative efficiency and discipline among the officers of local unions and the absence of efficient means for preventing fraudulent practices. As Mr. James O'Connell, the President of the International Association of Machinists, has well stated, "A labor organization, to carry on insur-

⁵¹ Stone Cutters' Journal, February, 1896, p. 5.

⁵² Proceedings of the Ninth General Convention of the United Brotherhood of Carpenters and Joiners (1896), p. 15. See also *The Carpenter*, March, 1893.

ance successfully must be well disciplined and its laws thoroughly settled in order that the highest standard of efficiency may be maintained."⁵³ Local officers, despite constitutional provisions to the contrary, will admit men to beneficiary membership who, because of physical disease or disability, inevitably cause financial loss to the union. Large sums are thus expended annually in the payment of benefits to members not legally entitled to receive them.⁵⁴

In spite of these weaknesses, however, American trade unions, following in the wake of the British organizations, are gradually assuming more and more the functions of insurance and beneficiary associations. Each year adds to the number granting the common forms of relief, while those unions that have already adopted these primary features are seeking to extend their activities further along the same lines. This growing importance of the benevolent function, though generally looked upon with favor by labor leaders, is, nevertheless, regarded by a few as a perversion of the original purpose of trade unionism leading to undue stress upon beneficiary and friendly relief at the expense of trade protection.⁵⁵

⁵³ *Machinists' Journal*, July, 1901, Vol. XIII, p. 470.

⁵⁴ The following is an extract from the report of the financier of the Iron Molders' Union, for the term ending July 7, 1902: "We have a class of members who keep up their standing as beneficial members and who are afflicted with disorders, the nature of which makes them an annual charge upon the Sick Benefit Fund to the extent of a year's benefits. For example, we have members afflicted with insanity, who are confined in asylums or sanitariums and who draw annually their \$65 in sick benefits. There are others that are afflicted with chronic disorders, which precludes the possibility of their working at the trade, and they, too, draw the limit of their sick benefits. Our records show that the number of these pensioners is on the increase"; see *Officers' Reports and Proceedings of the Twenty-second Session of the Iron Molders' Union* (1902), p. 647. See also *Proceedings of Eighth Biennial Convention of the Brotherhood of Painters and Decorators of America*, p. 62, and *Retail Clerks' Advocate*, August, 1903, p. 31.

⁵⁵ This is the opinion expressed by Ex-President Martin Fox of the Iron Molders' Union to the convention of Iron Molders held in Chicago in 1895; see *Proceedings of the Twentieth Session of the Iron Molders' Union*, p. 18.

CHAPTER III.

GENERAL EXPENDITURE.

The disbursements of trade unions for administrative and miscellaneous purposes are usually classed as general expenditures. They include, besides the ordinary charges of administration and office management, the cost of "organizing" and mediation, the expenses of printing and publishing and the cost of conventions and conferences. As a rule, disbursements for these purposes vary but slightly from year to year, and fiscal preparation therefor is an easier matter than for strike and beneficiary expenditures.

The portion of income devoted in each union to the payment of these items depends largely upon the character and scope of its activities and the extent to which its administrative system has been developed. In loosely organized unions such as the Bricklayers' and Masons' International Union, the International Printing Pressmen and Assistants' Union, the Journeymen Horseshoers' International Union and the National Association of Stationary Engineers, in which the functions of the central office are limited, expenses of this character are comparatively small. For example, the International Association of Steam Engineers—a loosely organized union composed of about four hundred locals with 16,000 members, expended but \$8048.85 during the year ending September, 1903, for all administrative and miscellaneous purposes.¹ Similarly, the 'Longshoremen and Transport Workers' Association with a membership of over 50,000 during the year 1904 paid out in official expenses of all kinds but \$21,348.40,² more than half of which was for officers' salaries and travelling expenses.

¹ Steam Engineer, October, 1903, pp. 6-7.

² Proceedings of the Thirteenth Annual Convention of the International 'Longshoremen and Transport Workers' Association, pp. 138-139. This union grants neither strike nor beneficiary relief to its members.

In more highly developed organizations, the cost of operation is much heavier. Thus, in the Iron Molders' Union, charges of this character are met from a fund supported by a monthly tax of twelve and a half cents on each member, while the sums expended for these purposes by the International Typographical Union, the Glass Bottle Blowers' Association, and the International Association of Machinists are proportionately large.

Generally speaking, however, whatever may be the activities and functions of the national union, the expenses of operation and the cost of management of American trade unions are small per capita. The entire official expenses of the Iron Molders' Union, during 1904, for instance, aggregated but \$74,586.97, which represents an expenditure of slightly less than one dollar per member. This amount covers all ordinary administrative expenses, in fact, all expenditures other than the disbursements of the local branches for local purposes, and the payments for strike and beneficiary relief.* The expenditure of the International Association of Machinists, for all purposes other than strikes and benefits, though heavier than in the Iron Molders' Union, is a small part of the total expenditures, about ten thousand dollars per month being ordinarily expended.

In smaller national unions, the cost of maintaining the organizations, estimated on a per capita basis, is greater than in the large unions. The Leather Workers on Horse Goods, for example, an organization having a membership of only one-tenth that of the Iron Molders or the Machinists, but whose functions and activities are of the same character, disbursed for administrative and aggressive purposes during the year ending May 30, 1904, \$26,175.20,

*Taking the case of the Cigar Makers' International Union as illustrating the expenditures of both the locals and the union for purposes other than strikes and benefits, we find that during 1903, \$224,482.61, or 36.3 per cent of the total expenditures was disbursed for organizing, agitation, litigation, hall rent, salaries, printing and office expenses, in all representing a cost to the membership for maintaining the organization equal to about \$5.50 per member.

a sum slightly exceeding one-third of the total expenditure and equal to about \$4 per member.⁴ The running expenses of the Pattern Makers' League, whose aggregate membership does not number more than 4000, is still higher, exceeding all other disbursements (including strike, sick, and death beneficiary expenditure) together.⁵ The smaller the union, the higher proportionately is the expense of its maintenance.

To illustrate more fully the nature of the expenditures incurred in the operation and management of trade unions, we shall examine the principal items in detail.

Expenses of Organizing, Mediation and Agitation.—Recognizing that numerical strength and efficient discipline are essential both to stability and success, American trade unions expend large sums annually in systematic efforts to extend and strengthen their jurisdiction over the workers of their respective crafts. The method long employed to accomplish these aims has been the sending out of union officers known as "organizers," to travel over the country in the interest of the organization, promulgating its principles, instituting new local branches, settling disputes with employers and otherwise adjusting matters pertaining to the trade. In a large number of unions these duties are performed chiefly by the president or the vice presidents, while in others, the work is either given over to special officers or is left wholly in the hands of local agents.⁶

The expenses involved in organizing proper is largely determined by the nature of the craft and by the age of the

⁴Leather Workers' Journal, July, 1904.

⁵Pattern Makers' Journal, July, 1902, p. 32.

⁶The ordinary duties of the organizers are stated in the following extract from the constitution of the Boot and Shoe Workers' Union (1902), sec. 27: "All organizers shall be subject to the direction of the General President and shall work promulgating the principles of the Boot and Shoe Workers' Union by means of personal interviews with boot and shoe workers, distributing literature, promoting the sale of union label goods, addressing meetings, organizing new locals and installing the officers. They shall perform such other duties as this constitution may prescribe or as the General President or the General Executive Board may direct."

union. In unskilled trades where there is a large non-union element competing directly with the members of the union, more active and persistent efforts in "organizing" are required than in the more highly skilled crafts, which are comparatively free from non-union competition. Thus, neither the Granite Cutters' Union, the Glass Bottle Blowers' Association, nor the Bricklayers' and Masons' International Union, all of which for a number of years have practically controlled the labor supply of their respective crafts, employ their officers actively in the work of extending their jurisdiction, whereas, the Retail Clerks' Protective Association, the Amalgamated Meat Cutters and Butchers' Workmen, the United Mine Workers and others, composed largely of unskilled workmen, employ special salaried officers and expend large sums annually for this purpose.

The Iron Molders' Union was the first American labor organization to actively employ its officers as propagandists. In 1864 the general convention voted the president a salary of \$600 per year and ordered him to devote the greater part of his time to visiting localities where the number of non-union molders was sufficient to form a local branch. His success along these lines during the years following led to an increase in his salary, permitting him to devote all his energies to the work. In 1888 the vice president of the union was also given a salary and made assistant organizer. Thereafter, as the union grew larger and richer, the number of vice presidents employed as assistant organizers was gradually increased until at present there are five organizers in the Iron Molders' Union, including the president, whose salaries and expenses aggregate each year \$16,000. Despite the fact that the union effectively controls the iron molding industry and has over four hundred local branches, the expenses of the organizers is steadily increasing. Their duties have been extended until at present they are largely engaged in the work of collective bargaining as expert agents of the national union. This enlargement of function has grown out of the responsibilities assumed by the national organizations

for the support of local strikes. With the creation of a national defense fund, it became desirable on the score of economy to avoid unnecessary conflicts by employing skilled negotiators to treat directly with employers and to personally adjust local grievances. Accordingly, the organizers being the most efficient officers in the union, have undertaken this work. Through their labors, a large saving in strike expenditure is effected, which, together with the increase in revenue from the dues of the new members gained through their efforts, greatly exceeds their cost to the organization.

A similar expansion in the function of the "organizer" from a propagandist to a mediator and arbitrator has taken place in the International Typographical Union. In 1885 when the office of "chief organizer" was first created with a salary of \$1500 per year and \$1000 additional for traveling expenses, the duties of the incumbent were limited to the organization of new local unions. After the trade became more thoroughly unionized, however, extensive work of this kind was not required. Accordingly, with the institution of the defense fund in 1890, the work of the organizer was shifted almost entirely to that of collective bargaining. The cost of this work is steadily growing, whereas the amount expended for mere organizing is very small. Thus, of the total expenditures from the defense fund amounting to \$73,420.26 during the year ending May 31, 1904, \$16,765.24 was in payment for services and expenses of officers and organizers. Of this latter sum, but \$1,061 was incurred in the actual expenses of organizing work (i. e., the organizing of the new locals), the remainder being spent in adjusting grievances.⁷

Similarly, in other well organized unions, such as the Cigar Makers, the Bricklayers and Masons, and the Glass Bottle Blowers, whose jurisdictions extend over almost every locality containing workmen of their respective crafts,

⁷ Proceedings of the Fifteenth Session of the International Typographical Union (1904), p. 34.

the money formerly spent for purely organizing purposes, is now profitably devoted to purposes of mediation and collective bargaining. The Bricklayers and Masons during 1903 spent over \$5000 for the employment of "special deputies" to adjust difficulties with employers, while the total expense involved in organizing new local unions amounted to but \$1597.03.⁸

However, in the more recently organized unions which have not yet extended into all sections of the country, the cost of adding new local unions is a large item of expense. Such unions generally follow the policy of keeping a force of organizers continually in the field for the purpose of gaining new adherents. The United Mine Workers of America is a type of this class of unions. Composed of various grades of skilled and unskilled laborers, whose attachment to unionism fluctuates with the condition of the industry, the executive officers have adopted the policy of expending a large portion of the union's funds in the effort to gain new members. During 1899, \$42,682.93 was thus expended, an amount equal to \$1.15 for each new recruit brought in to the organization. The next year \$62,284.44 was paid out, at an average cost of \$.63 for each new member, but with the resultant growth of over 100 per cent in the total membership.⁹ After the anthracite strike of 1902, the efforts of the United Mine Workers to organize the industry were on a still larger scale, the cost during 1903 exceeding one hundred thousand dollars.¹⁰

The Boot and Shoe Workers' Union since 1899 has maintained a policy of propaganda and agitation somewhat similar

⁸ Thirty-eighth Annual Report of the President and Secretary of the Bricklayers' International Union, for term ending December 1, 1903, p. 510.

⁹ Minutes of the Twelfth Session of the United Mine Workers of America (1901), p. 41.

¹⁰ Minutes of the Fourteenth Convention, p. 64, and Fifteenth Convention, p. 125. In 1903 a separate administrative department, known as the "Department of Organization" was formed at the national headquarters of the union, under the direction of a national vice-president.

to that of the United Mine Workers, spending large sums each year in the employment of a number of skilled organizers and business agents.¹¹ Largely through the efforts of the officers, the union has grown from a small poverty-stricken union of less than 5000 members to a great organization composed of 400 locals, whose aggregate membership exceeds 70,000. The Retail Clerks' International Protective Association is following a similar policy on a smaller scale, having three organizers and a number of local business agents in the field. The cost to the union during the year ending June 30, 1903, amounted to about \$15,000.¹²

The International Association of Machinists besides employing its five vice presidents as active organizers and mediators has adopted since 1899 the practice of paying half of the expenses of the local officers and business agents, who aid directly in this work.¹³ Although this step has proven costly,¹⁴ it is, nevertheless, regarded by the Machinists as a highly profitable investment, "for in nearly every instance," states President O'Connell in his report for 1903, "where a business agent is in the field our organization is active, energetic, and our membership has been at least permanent, if it did not show signs of increase."¹⁵ The cost of these local business agents, together with the salaries and expenses of the international officers who act as organizers and mediators, has, during the last few years, averaged \$35,000 annually.

A number of smaller unions, owing either to their small membership or to the fact that the workmen of their craft

¹¹ During 1904 the union had in the field twelve salaried organizers and sixteen business agents.

¹² Retail Clerks' Advocate, August, 1903, p. 31.

¹³ The Iron Molders' Union follows a somewhat similar policy in subsidizing local conference boards composed of the business agents of local branches situated in one city or district; see Constitution and rules of the Iron Molders' Union (1902), Art. XX.

¹⁴ During 1903 there were thirty of these business agents employed at an average monthly cost to the international union of about \$1,300; see Machinists' Journal, Vol. XV, p. 398.

¹⁵ Machinists' Journal, Vol. XV, p. 498.

are scattered, do not find it profitable to keep salaried organizers in the field, but resort to less costly means of extending their jurisdiction, such as the distribution of union literature or the payment of fees and bonuses to the organizers commissioned by the American Federation of Labor.¹⁶ Even when travelling organizers are employed, considerable reliance is placed upon the efforts of the agents of the American Federation and the dissemination of propagandist literature. Thus, the International Union of Steam Engineers, though having five national and a number of local organizers in the field, distributed during 1903 over one hundred and fifty thousand pieces¹⁷ of literature among non-union workmen in the trade. The Shirt Waist and Laundry Workers, with a total membership of less than 7000 also follow this plan, although the president and two other paid officers performed the services of organizers during 1904 at a cost of \$3415.94.¹⁸

The advertisement of the label is an expenditure which may properly be classed as an organizing charge. Since the adoption of an emblem in 1880 by the Cigar Makers to designate the product of their members, other national unions, where this method of promoting trade interests was found profitable and expedient, have followed suit. The United Hatters of America adopted a label in 1885, the United Garment Workers and the International Typographical Union in 1891, and the Boot and Shoe Workers in 1895. These, together with the Cigar Makers,

¹⁶ The American Federation of Labor maintains a corps of both salaried and volunteer organizers—men whose duty it is to aid in the "unionizing" of unorganized workmen, wherever a sufficient number of one trade can be found to form a local organization. During 1902 there were fifteen salaried organizers permanently engaged in the work for the year, while thirty-nine others devoted from one to six months to the work. The cost of these together with the expenses of the volunteer organizers aggregated \$36,217.75; see Report of the Proceedings of the Twenty-second Annual Convention of the American Federation of Labor (1902), p. 17.

¹⁷ The International Steam Engineer, October, 1904, p. 383.

¹⁸ Official Journal of the Shirt Waist and Laundry Workers' Union, August, 1904, p. 14.

spend the largest sums for advertising and label agitation purposes. The Cigar Makers' International Union, in addition to special funds raised and expended independently by the local unions,¹⁹ has disbursed annually since 1893 for label agitation, exclusive of the cost of the labels and the expense of protection against counterfeit and fraud, the following amounts:

1894.....	\$24,528.10	1899.....	\$28,440.16
1895.....	26,306.12	1900.....	31,383.67
1896.....	22,699.88	1901.....	38,563.85
1897.....	25,363.36	1902.....	39,394.27
1898.....	27,379.71	1904.....	44,339.82

The Boot and Shoe Workers' Union and the United Garment Workers have gone to even greater expense in soliciting public patronage. The latter, from 1899 to 1904, paid out in newspaper, magazine and similar forms of advertising more than \$50,000 annually, while the former, in addition to the union stamp agitation conducted by the organizers, employs a number of advertising agents in the work. Exclusive of the salaries paid these agents, the cost of advertising the union stamp of the Boot and Shoe Workers from June 1, 1902, to January 7, 1904, amounted to \$31,266.09.²⁰

Salaries and the Expenses of Business Management.—What may be called the purely administrative expenses or cost of business management in American trade unions consists chiefly of salaries and clerk hire, and ordinary office expenditures for rent, printing, postage, and supplies. The amount expended for such purely administrative purposes in the leading national organizations is a very small percentage of the total income. This is illustrated in the

¹⁹ The local unions are authorized to levy special assessments upon their members for the purpose of advertising the label in their respective localities. The aggregate amount thus expended is estimated to exceed that paid out from the general funds of the organization.

²⁰ Report of the Secretary-Treasurer, in the Proceedings of the Sixth Convention of the Boot and Shoe Workers' Union (1904), p. 11.

following table giving the cost of the office management and the total receipts in five representative unions:

COST OF BUSINESS MANAGEMENT.

UNION.	PERIOD.	EXPENSES. ¹	TOTAL RECEIPTS.	PER CENT. OF TOTAL RECEIPTS.
Cigar Makers' International Union.....	1903	\$31,775.00	\$751,942.56	4.2
Iron Molders' Union.....	1899-1902	26,439.00	562,570.45	4.6
Brotherhood of Carpenters	1903-1904 ²	30,725.33	620,101.56	4.9
International Association of Machinists.....	1903-1904 ²	212,902.29	338,885.67	6.7
International Typographical Union.....	1904	21,924.47	252,817.38	8.7

¹ In this are included the salaries of officers, clerk hire, the pay of auditors and expert accountants, rent, and expenditures for office equipment, stationery, postage and ordinary printing expenses exclusive of the cost of publishing the journals.

² 18 months.

² 14 months.

It will be observed that in these five unions which have developed extensive activities, both protective and benevolent, the expenses of management form a very small part of the total income. In the less highly developed organizations, whose functions and activities are not so extensive, the proportion is naturally greater.²¹ In some organizations almost the entire income of the national union is devoted to administrative purposes.

The salaries of the managing officers, though forming a considerable item in administrative expenditures are moderate. In a large number of unions the salaries of the general officers are determined by the financial condition of the organization rather than by the nature and extent of their duties. The honor system of remuneration long prevalent in the British unions seems to be in vogue on this continent

²¹ For example, during the two years ending June 30, 1903, the expenses of business management of the Retail Clerks' Protective Association aggregated \$16,700, or about one-fourth of the total income from all sources.

to some extent, since in a number of minor organizations the officers receive but small allowances and must consequently work at their trade to maintain themselves.

The system of paying officers for only a part of their time was uniformly followed by the older American organizations during their early history. Having few functions and meagre incomes such unions could ill afford to employ a salaried administrative staff. Three chief officers appointed to take charge of the affairs of the organization during the intervals between the yearly conventions, viz., the president, the secretary and the treasurer, were each paid an amount merely sufficient to compensate them for the time occupied in the performance of their duties.

SALARY EXPENDITURES IN THE INTERNATIONAL TYPOGRAPHICAL UNION¹ (1867-1885).

YEAR.	SALARY EXPENSE.	MEMBERSHIP.	PER CAPITA COST.
1867-68	\$ 675.00	6,095	\$.11
1868-69	575.00	7,563	.07
1869-70	800.00	7,657	.10
1870-71	800.00	8,725	.09
1871-72	1,500.00	8,724	.17
1872-73	1,300.00	9,797	.13
1873-74	1,050.00	9,819	.10
1874-75	1,050.00	9,245	.11
1875-76	1,050.00	8,624	.12
1876-77	700.00	6,900	.10
1877-78	700.00	4,260	.16
1878-79	700.00	5,968	.11
1879-80	850.00	6,601	.12
1880-81	850.00	6,500	.12
1881-82	1,000.00	9,500	.10
1882-83	1,150.00	12,273	.09
1883-84	1,125.00	16,038	.07
1884-85	3,832.00	18,000 ²	.18

¹ Proceedings of the Thirty third Annual Session of the International Typographical Union, p. 42.

² Includes salary and expenses of the chief organizer.

The International Typographical Union, for example, did not begin to pay the general officers having charge of the administration of the organization salaries sufficient to afford

them a livelihood until about 1885,—more than three decades after its formation and at a time when its membership exceeded 16,000. Previously, the total yearly expenditure for salaries, as shown in the table on page 111, rarely amounted to over one thousand dollars. The Cigar Makers' International Union was even more conservative in the matter of compensating officers than the Typographical Union; for as late as 1880, when the organization had already inaugurated a system of high dues and benefits, the international president who had been granted the sum of \$250 for his services during the year issued a written protest to the membership demanding "in justice to himself and to the principles advocated by trade unions, payment for labor performed."²²

The establishment of permanent headquarters has usually been marked by an increase in the compensation of the officers. In consequence of this step, it becomes necessary for some official to take charge of the office management and to attend to the daily business details of the organization. These duties, in nearly all unions, naturally devolve upon the secretary or secretary-treasurer. This officer is generally the first to be granted "a living salary." With the broadening scope and activities of the union, other executive officers are also granted compensation proportionate to their duties and responsibilities.

The amount of compensation granted the officers, in almost every case, is governed by the financial standing of the union, the larger and better equipped organizations paying larger salaries than the poorer ones. The standard of earnings in the trade is a smaller factor, although no organization could expect a leader to devote all his time to its interests, and to accept a smaller compensation in return for his services than could be earned at the trade. In unions where one person acts as both secretary and treasurer, and in addition is a member of the executive committee, or editor

²² Report of the President to the Thirteenth Convention of the Cigar Makers (Cigar Makers' Journal, October 10, 1880).

of the official organ, his remuneration is generally larger than when these duties and responsibilities are less onerous. For example, in the International Typographical Union, the secretary-treasurer, who is a member of the executive council and also editor of the Typographical Journal, receives \$1800 per year—a compensation equal to that of the international president; whereas, the secretary of the Iron Molders' Union, which has a larger membership and superior fiscal resources, but which has in addition two other responsible financial officers and also a journal editor, receives but \$1400 per year. On the other hand, the president of the Cigar Makers, who is also secretary and editor, receives but thirty dollars per week, in spite of the fact that the union has over forty thousand members and a surplus reserve of over a half million dollars.

The highest salaries are paid by the great railroad brotherhoods, the Locomotive Engineers, the Locomotive Firemen, and the Railway Conductors. The executive officer in each of these receives \$5000 per year, and other officers are compensated accordingly. The ordinary trade unions barely approach half this figure.

The following table gives the yearly salaries of the presidents and secretaries in ten representative unions:

UNION.	PRESIDENT'S SALARY.	SECRETARY'S SALARY.
United Mine Workers.....	\$3,000.00	\$2,400.00
Glass Bottle Blowers.....	2,400.00	1,800.00
United Brotherhood of Carpenters.....	2,000.00	1,800.00
International Typographical Union.....	1,800.00	1,800.00
Bricklayers and Masons.....	1,600.00	1,800.00
Iron Molders' Union.....	1,500.00	1,400.00
Cigar Makers' International Union.....	1,560.00	
United Assoc. of Plumbers.....	1,500.00	1,500.00
Inter. Assoc. of Machinists.....	1,200.00	1,500.00
Retail Clerks.....	1,500.00	1,500.00

It will be noticed that of these unions, two pay the secretary a larger salary than the president, three others give

equal compensation, while four give the president the larger sum, the difference, however, not exceeding six hundred dollars in any instance. Where the president is given a salary equal to that of the secretary-treasurer, he usually serves in other capacities than that of a mere presiding officer. We have seen that in a number of unions, he is "chief organizer," giving up a large part of his time to promoting the interests of the organization or endeavoring to settle disputes or grievances. When performing these duties, his salary and expense account, therefore, may properly be included under the head of "organizing" and agitation expenses.

Several of the older unions and a large number of the minor organizations still adhere to the original method of compensating all executive officers whose duties do not require their full time, by a per diem allowance for actual services. Thus, neither the Journeymen Stone Cutters' Association, the Journeymen Horseshoers, the Sheet Metal Workers' Association, nor the Printing Pressmens' International Union, which rank among the largest national unions, pay their chief executives a fixed yearly salary, but instead compensate them according to the number of days they have devoted to their duties. Members of the executive board, auditors, arbitrators, and committeemen are in most unions paid in the same manner. The rate of pay is apportioned to the standard rate of wages in the trade, though the disposition is to make it somewhat higher, so as to offset the inconvenience and extra expense involved in such duties. In the Iron Molders' Union, members of the general executive board, not already receiving a fixed salary, are granted a per diem allowance of six dollars while in attendance at meetings, in addition to their mileage expenses. The constitutions of the Granite Cutters, the Stone Cutters and the Marble Workers also fix the pay of executive board members at two dollars to two dollars and fifty cents per day above the current rate of wages. In other unions, the rate is somewhat lower. The Machinists, the United Mine

Workers, and the Coal Hoisting Engineers allow four dollars, while the Blacksmiths, the Carworkers, and the Table Knife Grinders allow but three dollars per day.

Travelling expenses are invariably paid by the unions, and these considerable allowances tend to make the expenses of conferences, committee and executive board meetings an appreciable item in the administrative budget. The Carpenters, for instance, spent over \$11,000 for executive board meetings alone during the two years ending June 1, 1904;²³ while in the Bricklayers' and Masons' Union and in the Iron Molders' Union the expenses are large. Such additional costs of office management as clerk hire, rent and office equipment are much the same as in ordinary business firms or corporations and therefore require no comment.

Postage and printing are heavy items in the cost of trade-union business management. Continual communication maintained between the central office and the local branches together with the printing and distribution of the convention proceedings, printed reports, circulars and other notices involve a large expenditure. In unions whose activities do not include the payment of strike or beneficiary relief on a large scale, the expenditures for these purposes often consume a larger share of their funds than any other single item.²⁴ For example, the printing account in 1902 of the Shirt, Waist and Laundry Workers amounted to \$2,422.70, almost one-third of their total expenditure.²⁵ Similarly, in the Retail Clerks' Protective Association, out of an aggregate expenditure of \$68,894.45, more than \$18,000 was devoted to printing and postage.²⁶ The disbursements of

²³ Proceedings of the Thirteenth General Convention of the United Brotherhood of Carpenters and Joiners (1904), p. 99.

²⁴ The cost of printing constitutions and convention proceedings exceeded, in the early American national unions, all other items of expenditures combined.

²⁵ Proceedings of the Third Annual Convention of the Shirt, Waist and Laundry Workers' International Union (1902), p. 11.

²⁶ Retail Clerks' Advocate, August, 1904, p. 31.

the larger unions for these purposes is relatively less than in the smaller organizations. Thus, during the year 1904, the ordinary printing expenses of the International Typographical Union, and the Bricklayers' and Masons' International Union amounted in each to slightly over six thousand dollars.²⁷

The cost of publishing an official organ either in the form of a weekly or monthly journal may be considered a usual item of trade-union expenditure. Beginning with the appearance of the *International Journal* of the Iron Molders' Union in 1864, these publications have multiplied in number until to-day almost every American national union having a membership of above five thousand publishes a periodical of some kind to serve as means of communication between the membership. In the early days, the expense of printing and distributing these publications bore heavily upon the unions, since only a small number of paid subscriptions were received, and income from advertising was inconsiderable. Thus, ten issues of the *International Journal* of the Iron Molders' Union during 1866, aggregating in all 73,000 copies, cost the union \$7,702.25 or about ten cents for each copy. The total received from subscriptions was but \$120. During the first year of the publication of the *Cigar Makers' Journal* begun in 1875, the expense was equally burdensome, amounting at times to almost one-half of the general expenditure of the union.

Later, however, increased membership and the practice of making the price of the journal a compulsory tax upon each member, have largely augmented the income from subscriptions. The income from advertising has increased proportionately. At present the leading organizations publish magazines of from twenty to seventy-five pages, in excellent typographical style, and containing, besides official

²⁷ After the publication of an official organ, much of the expense of printing and distributing special notices and separate reports of proceedings, etc., is avoided by inserting such matter in the regular monthly issues.

notices and reports, articles of general interest to the trade. Several of the large organizations, notably the railway brotherhoods, the Iron Molders' Union, the Machinists, the Mine Workers, and the Steam Engineers, employ salaried editors, who devote their whole time to their duties. Even with these improvements, the total cost of the journal in some cases is exceeded by the receipts for subscriptions²² and advertisements, while in others the income from these sources meets only a part of the expense of the publication. The following table gives the receipts and expenditures for the journals in nine leading unions:

UNION.	JOURNAL RECEIPTS.	JOURNAL EXPENDITURES.	NET COST.
International Union of Steam Engineers.	\$44,227.81	\$23,015.21	\$21,212.60 ¹
International Typographical Union	31,316.78	28,511.75	2,805.03 ¹
American Federation of Labor.....	32,639.89	30,669.92	1,939.97 ¹
Iron Molders' Union ³	22,085.22	33,625.41	11,540.19
Brotherhood of Carpenters and Joiners ⁴ .	2,819.36	12,600.53	9,781.17
Boot and Shoe Workers' Union ⁴	4,071.83	25,200.68	21,128.85
International Association of Machinists ⁴ .	4,503.75	40,060.78	35,557.03
Brotherhood of Railroad Conductors...	2,936.30	19,966.95	17,030.63
Leather Workers on Horse Goods ⁴	48.10	5,062.85 ⁶	5,014.75

¹ Profit.

² No subscription price charged members.

³ Three years.

⁴ 18 months.

⁵ Includes cost of other printing.

From this table it can be seen that only a few of the unions realize a profit from the publication of an official journal, while the net cost to the others varies considerably. The best paying publication is the *Steam Engineer*, a monthly magazine started by the International Union of

⁶ The subscription price varies from twenty-five cents per annum in the Iron Molders' Union to \$1.00 in the Brotherhood of Railway Conductors. A few national unions, however, furnish journals to members free of charge. In such cases it is necessary for the central office to forward the copies to locals by express to be distributed, instead of through the mails, since the post-office rules require a list of paid subscribers for periodicals entered as second-class matter.

Steam Engineers in June, 1902, more as a money-making enterprise than as an official mouth piece of the organization. At present each issue contains an average of fifty pages of paid advertising and an equal amount of reading matter.²⁹ Other organizations do not go so far in making the publication of their official organ a business enterprise, and hence gain no material profit from this source. Several unions, notably the Cigar Makers and the Leather Workers on Horse Goods, insert no advertising matter whatever in the pages of their journals and charge no subscription price to members. The United Mine Workers, the Amalgamated Iron, Steel and Tin Workers and the United Garment Workers publish weekly journals in newspaper form, which both because of their wider circulation among the members and the lower cost of publication are usually profitable.³⁰

Convention Expenses.—The holding of conventions has always been a burdensome charge to American trade unions. Originally assembled at annual or biennial intervals, they entailed expenditures for mileage and per diem expenses of delegates which at times exceeded in amount the disbursements of the union for defensive purposes. Of late years, however, owing to the growing practice of lengthening the periods between the sessions and the wider use of the initiative and referendum in matters requiring legislative action, the expense has become less burdensome than formerly.

With but a few notable exceptions, the American national trade unions have followed the plan of requiring each local branch to bear the expense of its delegates to the general

²⁹ In addition to a salaried editor, several advertising solicitors are employed on commission. Thus, for the year ending October, 1904, \$2,563.32 was paid out in commissions to these advertising solicitors; see the *International Steam Engineer*, October 15, 1904.

³⁰ The expense of publication is enhanced in a number of organizations by the necessity of inserting items in foreign languages. This not only involves extra charges for printing and translating, but in some cases requires also the employment of additional editorial force.

convention, the general treasury merely paying the expenses of the national officers, the cost of printing the proceedings, and other incidental charges. The excessive expense thus entailed on many local unions is, however, a matter of concern to the national union. Moreover, the system almost inevitably results in unequal representation of the local branches. Large locals, financially strong and desirous of having a full representation in general council of the national union, send full delegations while the smaller locals, unwilling to bear the expense, are frequently unrepresented.⁸¹ Partly to avoid this evil and partly as a result of financial centralization, a few of the older national unions have assumed the entire burden of convention expenses, paying both travelling expenses and a per diem to the delegates. The Iron Molders' Union took this step shortly after its organization and has since kept up the practice. The Cigar Makers' International Union, the Granite Cutters' Union, the Leather Workers on Horse Goods, the Piano and Organ Workers, and the United Association of Plumbers have likewise adopted the plan, while a number of organizations, notably the Brotherhood of Boiler Makers, the United Mine Workers, the Journeymen Barbers, and the International Brotherhood of Bookbinders, pay from the national funds the travelling expenses of the delegates.

But whether the burden falls upon the locals, or upon the national organization, the unions aim to lessen the expense as far as possible, first by holding fewer conventions, and secondly, by reducing the number of delegates and shortening the duration of the sessions.

In newly organized national unions especially those having a federate character, unity and harmony in the trade demands the frequent holding of conventions. The older unions, on the contrary, have clearly defined their trade

⁸¹ Proceedings of the Sixth Session of the Bricklayers' and Masons' National Union (1871), p. 10; Machinists' Journal, 1897, Vol. IX, 221.

policies and have become more stable in character. Fewer constitutional changes are required by them and important matters relating to their welfare are often left to the decision of executive officials instead of being referred to a general convention. The convention, accordingly, loses much of its former significance as the unions advance in age. In a large number of the older national unions, where the necessity of economy is apparent, general assemblies of local delegates are held only at long intervals or when demanded by extraordinary circumstances. Thus, the Granite Cutters' Union has held no general convention since 1880; the German-American Typographia since 1884; and the Cigar Makers' International Union since 1896. The Stone Cutters' Association has held but two conventions during the last ten years and the Iron Molders three, although both formerly convened at regular biennial intervals. On the other hand, the International Typographical Union and the Bricklayers and Masons' Union, though among the oldest of the national unions, still retain the annual sessions, despite the heavy expense entailed thereby upon the locals.²²

Probably the chief reason for the abandonment of frequent regular conventions is the wider use by the unions of the initiative and referendum as a means of determining constitutional changes and questions of trade policy. Although the general introduction of the imitative and referendum may be ascribed more to other causes, the saving thus made possible is, nevertheless, frequently an important factor.²³ While in organizations of the size of the Cigar Makers and the Iron Molders, the total cost of each convention is from \$30,000 to \$50,000 the extra charges

²² In both these unions, however, efforts have been made to lengthen the period between conventions; see *Proceedings of the Twenty-fifth Session of the International Typographical Union*, p. 20; also *Report of the International President to the Forty-sixth Session*, p. 72.

²³ *Proceedings of the Fourteenth Convention of the United Association of Plumbers, etc.* (1904), p. 43.

arising from the use of the initiative and the referendum rarely exceeds a thousand dollars.⁸⁴

Many unions, retaining the frequent regular convention, have reduced the cost of the session by the adoption of measures which shorten the sessions. Thus it is frequently provided that the officers shall be elected by referendum vote instead of by the delegates assembled in convention. In this way a protraction of the session is avoided.⁸⁵ Another measure of the same character is the requirement that proposed constitutional amendments and resolutions shall be submitted to a revision committee that meets and deliberates previous to the convention. Much time is thus saved that might otherwise be consumed in debates over measures not directly affecting the welfare of the trade or organization.

A reduction in the number of representatives is a further means of lessening the cost of conventions. In organizations of the type of the Cigar Makers, the Carpenters, and the Machinists, comprising from five hundred to seven hundred separate local bodies, composed of from 15 to 500 members, if the representation were apportioned so as to give the smallest locals one delegate and the larger, a quota proportional to their size, not only would the expense occasioned be enormous, but the assembly itself would be so large as to become unwieldy. To avoid these difficulties, the leading national organizations have enacted provisions tending to lessen the number of convention delegates. The Cigar Makers, for example, require all locals having less than

⁸⁴ This low cost is made possible by using the official journal as the instrument through which a question is submitted to a general vote.

⁸⁵ See the Report of Fourteenth Convention of the United Association of Journeymen Plumbers. This system of election was introduced by the Cigar Makers in 1893. It proved somewhat expensive, at first, the cost aggregating \$11,663.65. Later elections have involved much less expense, that of 1901 costing only \$3,000. In other national unions following the plan, the cost has not been so great as in the Cigar Makers. The cost in the Boot and Shoe Workers in 1902 amounted to but \$1,139.05; see Proceedings of the Sixth General Convention of the Boot and Shoe Workers' Union, p. 33.

twenty-five members to combine with another of a similarly small membership, in electing a representative.⁸⁶ The International Typographical Union, permits subordinate unions, with a membership of less than one hundred, to join with another local, in the selection of a delegate. It is the practice of a number of unions to have the small locals represented by proxy and to permit a large local sending one delegate to have its full quota of votes.⁸⁷

In spite of these measures, however, the cost of conventions still weighs heavily upon most American trade unions. Thus, the Toronto Convention of the Iron Molders' Union held in July, 1902, involved an expense in mileage and per diem allowance alone of \$50,650.72, or an expenditure of about one dollar for each member of the union. The last convention of the Cigar Makers' International Union, held in 1896, cost the union more than \$30,000. The cost of the annual sessions of the International Typographical Union, the United Mine Workers and the Bricklayers' and Masons' Union, although falling chiefly upon the separate branches, is an equally heavy burden.⁸⁸ That the money thus spent could be used to better advantage for other purposes is gradually being recognized by the unions. A large number have already abandoned the plan of holding regular sessions, and leave the question of holding conventions to be decided by a vote of the membership.⁸⁹

⁸⁶ Constitution of the Cigar Makers' International Union (1896), Thirteenth Edition, sec. 4.

⁸⁷ Book of Laws of the International Typographical Union (1904), Constitution, Art. IV.

⁸⁸ See, for instance, the Report of the International President to the Forty-sixth Session of the International Typographical Union (1900), p. 72.

⁸⁹ The national unions now pursuing this policy are the Brotherhood of Boiler Makers and Iron Shipbuilders, the International Association of Machinists, the Iron Molders' Union, the Pattern Makers' League, the Journeymen Tailors' Union and the Cigar Makers' International Union.

PART III.

ADMINISTRATION.

CHAPTER I.

ADMINISTRATION.

In the preceding chapters we have seen how American national trade unions, originating as loose associations of pre-existing local bodies with limited activities and scanty revenue have in many cases gradually developed into large centralized organizations conducting numerous and complex operations and collecting and expending annually large sums of money. Improvement in fiscal administration has gone hand in hand with this process of organic development. An administrative machinery, adapted to the peculiar needs of trade union structure, has been gradually built up, and is now in operation in many of the leading unions. The progress made in this respect, though varying according to the purpose and structure of each organization, may be conveniently described under three heads, (1) better provisions for an administrative staff, (2) safeguarding of union funds, and (3) improvement in the fiscal administration and discipline of the local unions.

In the formative period of national trade organizations slight provision was required for an administrative staff. National officers, it is true, such as president, secretary, and treasurer, were regularly elected and the duties of each defined in the written constitutions, but since no adequate compensation was afforded them and no permanent headquarters provided where they could jointly perform their labors, business management was necessarily crude and de-

fective. Each officer generally made his headquarters at his own home, working independently of his colleagues, and devoting only such time to his duties as could be spared from his daily labors at the trade. Such a loose system of business management was in vogue in the International Typographical Union from its formation in 1850 down to the year 1887, when the organization already numbered twenty thousand members. The Iron Molders' Union, though more active and energetic than the Typographical Union, was hardly more progressive in securing efficiency of business management. It was not until 1886, almost twenty-five years after its formation, that a permanent central office was established in Cincinnati and a salaried secretary was placed in charge. The progress along the same lines made by the Cigar Makers' International Union, the Stone Cutters' Association, the Bricklayers' and Masons' International Union, and the Journeymen Horseshoers' Union was likewise exceedingly slow. In fact, the Bricklayers and Masons, though organized in 1864, did not until 1904¹ establish permanent headquarters. Theretofore, it had been the practice for each of the executive officers (i. e., the president, the secretary, and the treasurer) to maintain separate headquarters in the cities where they happened to reside,² coming together for conference or joint action only on special occasions.

The system of lax administration commonly prevailing in national trade organizations during their formative stages is a necessary consequence of their financial poverty. As their revenues grow larger and their fiscal organization improves, responsible officers, devoting their whole time to their duties, are employed at a compensation corresponding

¹ At that time the Bricklayers' and Masons' International Union was composed of more than six hundred local organizations having an aggregate membership exceeding 70,000.

² This system of administration has been found to be more costly than that of having the officers reside in one locality and work together in one office; see Report of the President and Secretary of the Bricklayers' and Masons' Union (1903), pp. 505-506.

to the nature of their duties. At the same time, permanent central headquarters are established and equipped for business administration. These steps almost invariably mark the beginning of progress and improvement in financial organization and administrative discipline.

The combination of the offices of secretary and treasurer was a further step taken by several of the earlier national unions tending to promote efficiency in fiscal administration. By thus unifying the fiscal machinery, delays in the transaction of business are avoided and at the same time a saving in salaries is accomplished. The International Typographical Union adopted this change early in its history, the Journey-men Horseshoers' International Union followed in 1890, the Machinists in 1893 and the United Brotherhood of Carpenters in 1894. Other more recently organized unions have also adopted the plan, many introducing it in their first constitutions. Several of the prominent national unions, however (among which are the Iron Molders' Union, the Bricklayers' and Masons' International Union, and the Glass Bottle Blowers' Association), still maintain the offices of secretary and treasurer distinct, but the tendency in these as in other unions is to enlarge the duties and responsibilities of the secretary over those of the treasurer, giving the former full power to direct and superintend the financial affairs of the organization.

The officer, therefore, usually in full charge of the financial administration of the national unions is the general secretary, or as he is more often designated, the general secretary-treasurer.⁸ He is chosen from among the leaders of the organization in the same manner as other executive officers, and although his tenure of office is for a fixed term, he is customarily re-elected year after year as long as he attends to his duties satisfactorily and is willing to accept

⁸ A notable exception is the Cigar Makers' International Union in which the President performs the duties of a financial secretary. See Constitution of the Cigar Makers (1904), secs. 45, 48.

re-election. In the Brotherhood of Carpenters and Joiners, for example, Secretary-Treasurer P. J. Maguire was continued in office from the inception of the union in 1881 down to 1901, a period of twenty years. Mr. Adolph Strasser, who as International President of the Cigar Makers administered the business affairs of the organization, served for a similar period. The chief financial officers of the Iron Molders' Union, the Glass Bottle Blowers' Association and the United Mine Workers, have been likewise retained in continuous service. As a general rule, men possessing the training and knowledge essential to trade union business management are not easily found among the ranks of ordinary members. Accordingly, when a leader with these qualities performs his duties faithfully, the union can ill afford the risk of replacing him by another. Furthermore, in a number of national unions, the person holding the office of general secretary has taken a prominent part in the formation of the organization, and for this reason his retention in office is regarded as essential to its stability and progress. These reasons, together with the responsible character of the office, tend to exalt the position of the secretary-treasurer, making the incumbent, not merely a business manager, but rather a leader in questions of trade policy. Though in the older national organizations his influence in union affairs is superseded to some extent by that of the general president who assumes charge of collective bargaining, it is supreme, nevertheless, in the newer and less centralized unions.⁴

The duties of the general secretary are much the same in all organizations. Generally speaking, he attends to all financial and business matters of the organization. He is given full charge of the union's books, papers and office equipment, and must keep the accounts between the local

⁴The influential position of the Secretary-Treasurer arises from the fact that in many of the loosely organized unions, the President is a sort of honorary presiding officer, receiving no stated salary and coming to the central headquarters merely for conference or to attend meetings of the executive board; see ante, p. 114.

branches and the central office, attend to the office correspondence, pay out all authorized bills and obligations and, in some cases, also act as the secretary of the executive board and editor of the official journal. In the unions that have no separate treasurer, he also acts as custodian of the funds, holding in his hands sufficient money to meet the ordinary needs of the union.

To attend to all these duties properly requires a knowledge of business management and superior administrative ability. The mere supervision of the official correspondence with the local unions is, of itself, a serious and difficult task, since the collection of the national revenue and the enforcement of discipline throughout the jurisdiction (questions of vital importance to the welfare of the organization) are involved therein. Of no less difficulty is the work of supervising the accounts of business transacted; of compiling statistics of membership, wages and other matters of interest to the trade; of preparing financial reports, circular returns, balance sheets and other documents issued by the union; of aiding in the work of collective bargaining and arbitration, and, at the same time, of acting as the official spokesman in all questions with which the membership is from time to time confronted. Even with a corps of efficient assistants and clerks at his command the task of the general secretary is a highly responsible one.

Several of the larger national organizations, owing to the extension of their activities and the increasing complexity of their administrative work, have divided the office management into separate departments, placing a responsible head over each. Thus, in 1895, when the Iron Molders' Union inaugurated a national system of sick relief, a new officer, known as the "financier" was appointed to supervise the administration of this benevolent feature.⁶ Similarly in the United Garment Workers, an officer, desig-

⁶ Constitution and Rules of the Iron Molders' Union adopted 1892, Art. IV, sec. 10.

nated general auditor, was formerly elected with the general secretary-treasurer, to take full charge of the accounts between the local and subordinate unions and the central office.⁶ The Brewery Workmen also employ an officer for this purpose, thus simplifying the duties of the secretary-treasurer.⁷

The separation of the offices of secretary and treasurer, which, as already pointed out, still obtains in certain of the older organizations does not appreciably lessen the burden of the general secretary, though it relieves him of a share of responsibility. On the contrary, this plan of separating the receiver and disburser from the custodian of the funds involves additional bookkeeping, since the former, besides keeping an account with the local unions must also keep a daily account with the treasurer. In the Iron Molders' Union, for example, where the treasurer receives per capita taxes direct from the locals, instead of through the general secretary, as is the practice in most other organizations, the system not only entails extra bookkeeping and correspondence, but also places an increased burden upon the local officers. The local officers in making remittances, must, in addition to forwarding the money to the treasurer, who resides in a different locality from the secretary, also send a record thereof to the general secretary, thus doubling the amount of correspondence. The absence of the treasurer from the central office, an arrangement prevailing in several unions in order to prevent collusion between the two financial officers, is the cause of much inconvenience. Delay in the payment of benefits and other obligations is occasioned thereby, since several days must elapse before orders upon the treasurer for funds can receive attention.⁸

⁶ Constitution of the United Garment Workers (1902), Art. VI. sec. II.

⁷ Constitution of the International Union of United Brewery Workmen of America (1903), Art. VI, sec. II.

⁸ Proceedings of the Twenty-first Session of the Iron Molders' Union (1899), p. 624.

The inconvenience and delay arising from a division of responsibility for the fiscal operations of the national unions, have led to the concentration of the entire business management into the hands of one responsible bonded officer, who has the privilege of selecting his subordinates and clerks,⁹ the power to direct and supervise their labors, and to otherwise superintend the office administration. Unity, efficiency and harmony in administration is thus assured, where otherwise discord, neglect and delay might result.¹⁰

The methods of bookkeeping and accounting prevailing in the central offices of the national unions are virtually the same as in ordinary business corporations or insurance societies. A distinctive feature in many organizations, however, is the practice of maintaining separate funds for meeting the different forms of expenditure. The monthly revenue, for example, is apportioned among five different funds in the Typographical Union; among four in the Iron Molders' and the Pattern Makers' League; among three in the Boot and Shoe Workers' Union, the International Brotherhood of Electrical Workers and the Journeymen Barbers' International Union, while in a great many others the defense fund is maintained separate from the money designed for general or beneficiary expenditure. This system of apportionment is the outcome of a general desire on the part of both the convention delegates and the general membership of the organizations to adjust the revenues of the central office to a definite scale of expenditure. Little opportunity is thus given the national executive officers to enhance their own authority or to extend the activities of the national organization by expending the funds for purposes other than those prescribed in the written constitu-

⁹ In some unions the approval of the President and executive board is required.

¹⁰ Instances of discord arising from the employment of several financial officers of equal rank has occurred in the United Brewery Workmen; see Proceedings of the Thirteenth Convention of the International Union of United Brewery Workmen of America, pp. 19-27, 52.

tions. Moreover it is very difficult to have members consent to an increase in the monthly income of the national union, except for some specific purpose, or more particularly for the maintenance of some new benefit.¹¹ Accordingly a fixed portion of the revenue is appropriated for each additional benefit or activity undertaken by the national organization. The expenditures of the national unions are in this way practically controlled by the membership body, since the executive officers are prevented from freely using the national funds for certain purposes to the detriment or exclusion of other purposes. Money appropriated for a defense fund cannot be used for organizing purposes, neither is it possible to expend for the support of strikes, funds set aside for the payment of relief claims.¹²

The greatest difficulty attaching to the separate fund system of bookkeeping in the national trade unions lies in the absence of any practical rule for apportioning the revenue of the union among the several funds. As a general rule this adjustment is little more than guess work and is accomplished with any accuracy only after many changes. A change in the number or age grouping of the membership may cause a serious drain upon the funds set aside for beneficiary purposes, and disturbances in trade conditions may result in a rapid exhaustion of the defense fund. Under these circumstances it is often necessary to borrow from one fund, a proceeding which not only destroys the purpose of the separate fund system, but in addition renders the work of bookkeeping more difficult. In the International Typographical Union, for example, during the years between 1896 and 1900 the fund maintained for general administrative expenditures was found insufficient to meet

¹¹ Proceedings of the Forty-fourth Annual Session of the International Typographical Union, p. 17.

¹² The privilege, however, of transferring temporarily money from one fund to another is given to the general executive board by the constitutions of several international unions; see Book of Laws of the International Typographical Union; also Constitution and Rules of the Iron Molders' Union, adopted 1902, Art. VI. sec. 3.

the demands upon it, and consequently had to be supplemented constantly by money transferred from other funds.¹³ Frequent changes in the plan of apportionment have also been made in the Typographical Union.¹⁴ The transfer of money from one fund to another and changes in the amount of revenue appropriated to each fund have also occurred from time to time in the Brotherhood of Carpenters and Joiners, in the Iron Molders' Union, and in the Pattern Makers' League.¹⁵

To avoid the inconvenience and extra labor involved in the maintenance of special funds, a few of the older organizations have abolished the system altogether, and discharge all obligations from a common fund. This step was taken by the Granite Cutters' Union in 1897, by the United Brotherhood of Carpenters and Joiners in 1896, by the United Brewery Workmen in 1899, and by the Journeymen Plumbers in 1898. The Cigar Makers' International Union since 1879 has followed the plan of having all receipts go into a common fund. The International Association of Machinists, the United Mine Workers, the Leather Workers on Horse Goods and a few others likewise maintain no separate funds.

The safeguarding of union funds against misappropriation has always been a serious problem in the financial administration of American trade unions. As unchartered associations without legal protection and compelled from their structural character to entrust their funds to individuals over whom a thorough supervision could be exercised with the utmost difficulty, there is little cause for wonder that almost every American union, whose history covers

¹³ Proceedings of the Forty-sixth Session of the International Typographical Union, p. 9.

¹⁴ Proceedings of Forty-fourth Session, p. 17; also Forty-eighth Session, p. 29.

¹⁵ Proceedings of the Tenth General Convention of the Brotherhood of Carpenters and Joiners (1898), p. 27; Proceedings of the Twentieth Session of the Iron Molders' Union, p. 48.

more than a decade, has at some time or other suffered from a serious defalcation.

The present disinclination of labor unions to incorporate is of comparatively recent origin. Previous to the use of injunction and damage suits by employers, the leading trade unions made serious efforts to secure charters. Thus, during the decade between 1870 and 1880, the National Union of Bricklayers and Masons, the Iron Molders' Union, the International Typographical Union and the Blacksmiths' and Machinists' Union,¹⁶ each in turn, made application for a charter from Congress, but without success.¹⁷

The Typographical Union, after failing to obtain incorporation from the national government, sought incorporation from the State in which its treasurer resided. The special convention of the Iron Molders' Union in 1870, convened because of the defalcation of the national president, was urged by the acting executive, Mr. Fitzpatrick, to incorporate. "The great amounts of money held by the various officers and under their control," he said, "proves conclusively that some measure should be adopted to guard safely the interests of our members."¹⁸

Although incorporation would have undoubtedly improved the financial organization of the early unions, it is doubtful whether it would have prevented misappropriations, since as we have already intimated, losses of this kind can usually be traced to the inability of the unions to examine the accounts of their trusted officers closely and frequently. For example, when in 1884, the treasurer of the Iron Molders' Union absconded with \$19,867.46 of the union's funds, it was found that the trustees who had been appointed jointly to examine his accounts from time to time and to take charge of the

¹⁶ The Blacksmiths' and Machinists' International Union was incorporated under the laws of Ohio in 1870.

¹⁷ See Twelfth Annual Session of the Bricklayers and Masons, p. 5; also Sixteenth Annual Session, p. 18; also Iron Molders' Journal, May, 1897, and Proceedings of the Fifteenth Session of the Cigar Makers' International Union, p. 4.

¹⁸ Iron Molders' Journal, May, 1879.

surplus cash held by him could not come together often enough to prevent a large sum accumulating in his hands.¹⁹ The defalcation of the secretary of the International Typographical Union in 1887 was ascribed to the same cause. In this instance the shortage was not discovered until the general convention assembled the year following, and even then the extent of the loss could not be ascertained until nine months thereafter owing to the "mutilated" condition of the secretary's books.²⁰

Instances of more recent losses can be explained upon similar grounds. The notable case of the secretary-treasurer of the United Brotherhood of Carpenters and Joiners, who held this office from the inception of the union in 1881 down to 1901, offers a good illustration of the inadequate system of supervision that has prevailed in even the largest and most progressive of American trade unions. Although in 1901 the United Brotherhood could boast of more than eleven hundred local branches, with a membership aggregating seventy-five thousand, the only salaried executive officer was the secretary-treasurer. The president and members of the executive board worked at the trade in the localities where they resided, receiving per diem allowances for the time spent in union business. Insufficient supervision was exercised over the office of the secretary-treasurer. Errors in accounts and shortages amounting to \$10,074.93 were not discovered until the regular meeting of the general executive board in September, 1901. Further delays in ascertaining

¹⁹ For some time previous to his defalcation, the Treasurer was receiving money at the rate of \$5,000 per month, whereas his bond amounted to but \$6,000. To keep the balance in his hands below this amount would have required the trustees to remain almost continuously in Brooklyn, his place of residence; see Proceedings of the Seventeenth Session, pp. 6-7.

²⁰ A special committee appointed to examine the Secretary-Treasurer's books, estimated the shortage to be \$2,238.38, due to careless bookkeeping rather than to misappropriation. The delinquent secretary himself explained it as the result of making legitimate expenditures without retaining vouchers; see Proceedings of the Thirty-sixth Session of the International Typographical Union, pp. 15, 88, 94.

the nature and extent of the shortage resulted in failure to properly notify the bonding company thereof, thus rendering worthless the bond of the secretary-treasurer. The only recovery was a quit claim given by the defaulting officer for salary due him.²¹

Another recent instance of a serious defalcation, occurring in the Brotherhood of Leather Workers on Horse Goods during 1902, may be ascribed not only to inadequate supervision but also to a lax method of safeguarding funds held by the secretary-treasurer. The president of this organization resided in a locality distant from Kansas City, the location of the central office, and found it impracticable to countersign checks drawn by the secretary-treasurer upon the funds of the union. To comply with the requirements of the bonding company, that two signatures should be affixed to checks and warrants, a clerk in the office was authorized to countersign in place of the president. The secretary within a few months, made away with over six thousand dollars of the union's money.²²

Other instances of financial losses by trade unions exhibit the same underlying causes. Almost every serious defalcation that has ever occurred may be said to have been due either to lax administrative methods in supervision and inspection or to insufficient safeguards placed about the funds in the custody of trusted officers.

With the improvement in the financial resources of the national unions during the last two decades, however, provisions against misappropriation have been gradually introduced by the leading national organizations. The most practicable method employed to accomplish this end has been the appointment of a few leading members, generally the executive board, to act jointly as the guardians or trustees of all property belonging to the organization. These trustees,

²¹ Proceedings of the Twelfth General Convention of the United Brotherhood of Carpenters and Joiners, pp. 20-24.

²² In this instance a recovery of the loss was obtained from the bonding company; see *Leather Workers' Journal*, July, 1904, p. 716.

acting in conjunction with the president, are elected in the same manner as the other officers, and if not already receiving a salary, are paid according to the time required in the performance of their duties. Their duties are supervisory and similar to some extent to those of the board of directors of an industrial corporation. As a general rule, they are required to receive from the treasurer all funds over a specified amount held by him and to deposit such amounts in accredited banks or to invest them in United States bonds or other securities in their own name and the name of the union. It is their further duty to examine from time to time into the accounts of the officers and to see that they are properly bonded. If for any reason they are not satisfied with the condition of the accounts or consider an officer incompetent or negligent of his duties, they may suspend him from office and appoint another in his place. Acting jointly and not individually in their official capacity, and in most cases placed under bond, the trustees rarely abuse their powers. Moreover, since the signatures of at least a majority of their number are required to draw funds deposited in their name, misappropriation of funds entrusted to them is almost an impossibility.²⁸ The danger of losses from other sources is also reduced when the trustees are able to inspect the accounts of the officers carefully, and are otherwise faithful in the performance of their duties.

Next in importance to the appointment of trustees as guardians of funds and other union property, are the con-

²⁸ The Constitution of the Boot and Shoe Workers' Union provides (1904, sec. 8) that all money deposited in banks by the trustees can be withdrawn only with the consent of the majority of the board, upon a draft countersigned by the Secretary-Treasurer. The Iron Molders' Union and the International Association of Machinists have a similar constitutional provision. The executive council of the International Typographical Union, consisting of the President, first Vice-President and Secretary-Treasurer, act as the trustee of all the funds above \$20,000. The reserve funds of the Cigar Makers' International Union are held in trust by the local unions and consequently no provision for an international board of trustees is necessary.

stitutional provisions for bonding and auditing. The amount of the bond required of each financial officer frequently corresponds to the constitutional limit placed upon the amount of funds he is permitted to have in his custody. In the International Typographical Union and the Boot and Shoe Makers' Union these provisions are identical, the former requiring the secretary-treasurer to be bonded in the sum of \$20,000 and making it the duty of the executive council to secure by investment or deposit all funds held by him in excess of this amount; the latter requiring a bond of \$5000 with a similar provision. The usual practice, however, is to fix the bond in excess of the funds the officers are permitted to retain. The constitution of the Bricklayers' and Masons' National Union provides for the bonding of the treasurer in the sum of \$10,000 but does not permit him to have on hand at one time more than \$100 of the general funds.²⁴ Similarly, in the United Brewery Workers, the bond of the secretary-treasurer is fixed at \$5000, and it is the duty of the trustees to take care that he "shall never have more than \$2000 as an open account in the bank, all surplus must be turned over to the trustees to be invested by them in good securities."²⁵ Other leading unions take similar precautions.²⁶

In the few unions where no provision is made for trustees to act as joint guardians of surplus funds, the bond of the treasurer, who thus becomes sole custodian, is usually much larger. Thus, in the Brotherhood of Carpenters \$50,000 surety is required from the general treasurer "as security

²⁴ Constitution of the Bricklayers' and Masons' National Union, Art. V, secs. 1-3.

²⁵ Constitution of the International Union of Brewery Workmen (1904), Art. VI, sec. 17.

²⁶ The Secretary-Treasurer of the Machinists is bonded in the sum of \$10,000 and may not hold in his name more than \$5,000. (Constitution, Art. III, sec. 7.) The bond of the Secretary-Treasurer of the Mine Workers is placed at \$25,000 and \$15,000 is the maximum that he is allowed to retain in his hands. The Treasurer of the Iron Molders is bonded in a similar amount and under like conditions, while the Secretary is bonded in the sum of \$5,000 and "shall at no time have in his possession more than \$750 for legitimate office expenses." Constitution, 1902, Art. IV, sec. 7.

for the faithful performance of his duties,"²⁷ and a like sum must be furnished by the treasurer of the Glass Bottle Blowers' Association. In almost every instance the executive board or the trustees who hold the bonds of the financial officers have the right to increase the amount of the bond whenever they deem such a step necessary.²⁸

The greatest benefit derived by the union from these bonding provisions is that, to comply with the conditions imposed by the surety companies, improved methods of bookkeeping and more efficient means of supervision must be introduced. Warrants and checks must be countersigned by competent persons²⁹ and proper measures must be taken for auditing and accounting, or the companies refuse to underwrite the risk. These precautions rather than the actual insurance against loss are undoubtedly the best safeguards against the evils of maladministration and misappropriation. Moreover, recovery on the bond of a defaulting officer is not infrequently a difficult matter, the surety companies often escaping payment through the failure of the unions to fulfill all the conditions of the contract or their inability to properly state the nature and extent of the loss. A resort to the courts to enforce payment involves additional expense and inconvenience and in most cases results unfavorably to the union.

American trade unions, therefore, rely mainly upon improved methods of auditing and accounting for the safety of their funds. Nothing has proven more effective in promoting efficiency in management or bringing to light discrepancies and misappropriations. This fact is now recog-

²⁷ Constitution, sec. 30.

²⁸ The expenses of the bonding, almost without exception, are paid from the funds of the union.

²⁹ The person generally designated to countersign all drafts is the president, although in some unions this is rendered difficult owing to the absence of the president from the central office; in such cases a resident trustee is substituted. The Iron, Steel and Tin Workers require three signatures upon all warrants, and the Boot and Shoe Workers, four.

nized by all the leading organizations and the methods employed for detecting fraudulent entries or errors in book-keeping have been much improved in recent years. Whereas it was formerly the practice to have the books of the national officers examined but once a year at each convention, by an auditing committee appointed by the delegates from their own number, the present method is to have permanent auditing boards examine the books at intervals of from one to three months or oftener if examination is requested by the executive board. Expert accountants are also employed by a number of unions to make a thorough examination of the books at regular intervals. The constitution of the Carpenters requires such expert examination every three months and the Typographical Union twice yearly. The reports of these auditors and accountants and also the monthly or quarterly statements of the general secretary are usually published in the official Journals, thus acquainting the membership with the fiscal operations and the financial affairs of the national organization.

Proper methods of investment are next in importance to bonding and auditing as measures for safeguarding funds. In times past this was not a serious problem with trade unions for the simple reason that their limited revenue did not permit the accumulation of surplus reserves. The steady growth in their financial resources within recent years together with the adoption of the policy of accumulating reserve funds for defensive and benevolent purposes, however, has induced the most progressive national organizations to seek forms of investment which would assure the safety of the funds and at the same time give the unions additional sources of income. The fiscal exigencies of trade unions make it necessary to invest only in securities which can be immediately converted into ready funds during times of conflict. The investment methods available, therefore, are the deposit of funds at interest in banking institutions from which withdrawals can be made on short notice, and secondly, the purchase of government or municipal bonds hav-

ing a stable market value. Such investments naturally yield only a relatively small income.³⁰ Banks and trust companies accepting short time deposits cannot be expected to pay a rate higher than $3\frac{1}{2}$ per cent per annum, and when the privilege of full and immediate withdrawal is given, the rate is not much above 2 per cent. On the other hand the high premiums that must be paid for Government bonds, bring down the income obtained from their purchase to an even lower rate.³¹ The absolute security of funds invested in Government bonds, however, makes their purchase desirable as investments for labor associations despite the small income gained therefrom. The tendency, therefore, is for the national organizations to invest their resources in this way. The constitution of the American Federation of Labor provides that all money over \$15,000 shall be thus invested. A few other organizations have a similar constitutional provision, though as a general rule the choice between deposit with a reliable banking institution or purchase of United States bonds is left with the executive board acting in their capacity of trustees.³² The International Association of Machinists, the United Mine Workers, the Boot and Shoe Workers and several other national organizations, however, restrict investments to deposit with reliable banks or trust companies. The plan followed by the United Mine Workers is to keep all their available funds on deposit with the various banks of Indianapolis,³³ where

³⁰ The interest obtained by the Glass Bottle Blowers from \$240,000 held on deposit during year ending July, 1904, amounted to \$6,129.30. The total paid out for salaries and office help amounted to \$5,580, leaving a balance of \$549.30; see Proceedings of Twenty-eighth Annual Session.

³¹ Thus, on a purchase of \$100,000 of United States 4 per cent bonds, maturing in 1925, the Glass Bottle Blowers' Association was compelled to pay \$36,500 premium. See Proceedings of Twenty-seventh Session of the Glass Bottle Blowers' Association, p. 53.

³² This policy prevails in the International Typographical Union, the Iron Molders' Union, the Cigar Makers' International Union and the various brotherhoods of railway employees.

³³ Prior to 1903, it was also the policy of the Glass Bottle Blowers' Association to have their reserve funds, which exceeded \$100,000, on deposit with banking institutions at Pittsburg. The highest rate

the central office is situated. The secretary reported to the fifteenth annual convention that on November 30, 1903, funds aggregating \$1,129,137.48 were thus deposited to the credit of the union.⁸⁴ Similarly, the International Association of Machinists in March, 1903, had on deposit with a single banking institution in Washington, D. C.,⁸⁵ approximately \$70,000. The Boot and Shoe Workers, on the other hand, regard as unsafe the plan of entrusting funds to institutions located in a single city and prefer to distribute their reserve among banks located in different sections of the country. The Cigar Makers, owing to the fact that the general funds are in the custody of the locals, likewise have money on deposit in almost every city in the country.⁸⁶ This distribution of the custody of funds, it is claimed, reduces the risk of serious loss through bank failures or fraudulent withdrawals.⁸⁷

American trade unions have made noteworthy progress in acquiring a larger control over the fiscal administration of their local or subordinate branches. In the chapter on revenue we have already shown that such progress is essential both to the growth of financial power and to the extension of the activities of the national unions. As long as local unions are permitted to regulate their own revenues and otherwise manage their finances in their own way, the na-

of interest received was four per cent per annum; see *Proceedings of the Twenty-fourth Annual Session of the Glass Bottle Blowers' Association* (1900). p. 25.

⁸⁴ See *Minutes of the Fifteenth Convention of the United Mine Workers* (1903), p. 48.

⁸⁵ *Machinists' Journal*, Vol. XV, p. 483. The President of the Machinists has urged the purchase of bonds as a safer though not so profitable form of investment.

⁸⁶ See the *Boot and Shoe Worker*, April, 1901, p. 7. It is also the policy of the Boot and Shoe Workers to withhold from the public the names of the institutions where they have funds on deposit.

⁸⁷ Through a bank failure the International Typographical Union in 1899 lost \$12,259.74; see *Proceedings of the Forty-fifth Convention of the International Typographical Union* (1899), p. 85.

tional unions are unable either to build up a large central treasury or to enforce discipline over their sources of income. Efforts made to acquire control over local finances and local administration, however, have been strongly opposed as measures interfering with the principle of local autonomy, which in many unions is still considered the basic principle of organization. The national unions have always experienced the utmost difficulty in promoting better fiscal relations with their local and affiliated branches. National trade organizations do not have the privilege of selecting or removing at will their own local administrative agents in the same manner as industrial or business corporations. Local officers upon whom they must depend for the collection of their revenues and the execution of their orders are elected by the local membership, the national executive officers having no voice whatever in their selection. Consequently if men are placed in office who neglect the duties required of them by the national constitution, the only practicable remedy is the suspension of the local from the rights and privileges of the national organization—a step entailing both numerical and financial loss and often leading to serious discord within the organization. Because of this inherent weakness in trade union structure, local administrative officers are very often retained in their positions by the local memberships despite and in the face of the protests of the national officers and the losses incurred through careless management. To obviate as far as possible these disadvantages the best organized and most progressive unions have been led to contrive measures for securing their financial interests within the locals and for promoting better business management therein. Such measures in general aim to bring about (a) a more efficient collection of national revenue and a better local administration of national beneficiary features; (b) the use of uniform and improved methods of local bookkeeping and accounting; and (c) the safeguarding of local funds from misappropriation and fraud. The means

employed to accomplish these aims and the success thus far attained will be examined in turn.

(a) Probably the most difficult problem connected with the administration of American trade union finance has been the prevention of "tax dodging" by the local unions. Under the per capita tax system of revenue which makes the central treasury of the national union dependent directly upon the funds of the locals for support, evasion of the full share of the burden has gone on continually. Locals, whenever it suited their convenience, have failed to report the full number of members in good standing, and have in this way diverted to their own coffers revenue properly belonging to the general treasury. The common method of doing this has been to permit a certain number of members to fall behind in the payment of their local dues until after the remittance of the per capita tax to the headquarters of the national union, in the meantime, reporting these delinquent members as in arrears and consequently not in good standing. As a result of this sort of tax evasion many of the national unions have been systematically deprived of a large part of their income. Thus, in the Iron Molders' Union, an organization maintaining a relatively high grade of discipline within its ranks, only seventy-five per cent of the per capita tax estimated as due from the locals reached the central treasury.²⁸ The percentage of loss in other organizations has been even greater. The secretary of the Brotherhood of Boiler Makers in 1899 reported that less than one-half of the per capita tax paid in by the individual members was received by the national union.

Several remedies for putting a stop to this tax evasion have been tried with varying degrees of success. Fines and other penalties were imposed by a number of unions upon locals convicted of defrauding the national treasury of any part of the dues. Thus, the constitution of the United Mine

²⁸ Proceedings of the Twentieth Session of the Iron Molders' Union (1895), p. 12.

Workers provides suspension from the national organization as a penalty for the offense, while the constitutions of the Brotherhood of Boiler Makers²⁹ and of the Amalgamated Meat Cutters give the executive officers power to discipline, at their discretion, any local union misrepresenting the numbers of its membership in order to avoid the full payment of national dues. Others, again, require a full list of the names of members paying dues to accompany remittances by the locals, thereby enabling the national secretary by comparing consecutive lists, to ascertain the standing of each individual member at every payment of the per capita tax. If members in good standing are not reported on these lists, they are thus made ineligible to the benefits of the national union. Local secretaries submitting false reports may in this way deprive members of their rightful privileges.

These methods, however, have not proven as effective as the "stamp receipt system" of collecting the national dues, almost universally in force at present in the national organizations in this country. This system consists of the sale of adhesive stamps to the local unions, each stamp representing the amount of the periodic per capita tax or other charges levied for the support of the central treasury. The stamps are affixed by the local secretaries to the due books or working cards of the members when they pay their dues or assessments, and thus serve as a receipt. Since no other form of receipt is recognized by the national union, each member in order to be eligible to the national benefits must show the full number of stamps in his due book for the period required. In order to prevent counterfeiting or fraud, the color of the stamps is changed at irregular intervals. Since in most instances remittances must accompany orders for stamps, local unions not sending in their orders promptly or otherwise permitting their stamp supply to become exhausted would be temporarily depriving their members of their good standing in the national organization. Downright evasion

²⁹ Boiler Makers' Journal, September, 1899, p. 275.

of the national dues thus become a matter of difficulty, and, accordingly, the unions, after first instituting the "stamp receipt system" have experienced a sudden growth in the number of paid up members and a proportionate enlargement of their incomes. Thus, the receipts from the per capita tax in the International Typographical Union, in the first four months after the institution of the system showed an increase of four thousand members.⁴⁰ The beneficial effect in the Journeymen Plumbers' Association was even more pronounced, the national revenue, during the year following the inauguration of the system, almost doubling.⁴¹

Another useful device in the collection of revenue which has recently been installed by several large organizations is a duplicate card filing catalogue. This makes possible the preservation in convenient form of complete records of each individual member in every local union. The standing of each member can thus be ascertained at all times, and, consequently, evasion of dues or the presentation of fraudulent claims to benefits can be readily detected. A number system of membership registration is likewise a convenient device for keeping the records of individual members, especially when used in connection with the card filing system. Each member, according to this plan, at the time of his initiation, is assigned a number by which he is thereafter designated at the national headquarters. The number is placed in the members' due book and a duplicate record is kept on file upon the books of the national union or in the card catalogue. To national unions paying benefits to members directly from the general funds, the system of numbering is a valuable aid in determining the eligibility of members to benevolent relief. The plan has been successfully put in operation by the Iron Molders' Union, the Brotherhood of Painters and Decorators and the Pattern

⁴⁰ See Proceedings of the Forty-seventh Session of the International Typographical Union, p. 39.

⁴¹ See Proceedings of the Tenth Session of the United Association of Journeymen Plumbers, etc. (1899), p. 15.

Makers' League and has long been in use in the Cigar Makers' International Union.

(b) Despite the benefits resulting from these expedients, complaints on the part of the national officers of evasion of dues and the payment by local unions of illegal and fraudulent claims to benefits are still frequent. The adoption of further means of improving the business management and enforcing more efficient discipline over the local financial officers has been urged.

The greatest progress along these lines has resulted from the introduction of uniform systems of bookkeeping and accounting in the local unions. Up to within a few years ago, the practice prevailed in a large number of unions of permitting local financial officers to keep their accounts according to their own ideas and methods, thus occasioning frequent errors in local bookkeeping and constant strife over indebtedness and arrearages for national dues between the local and the central office. These difficulties have been partially remedied by the use of printed ledgers, cash books and necessary blanks prepared and furnished by the central office of the national union, in which detailed instructions as to the principles and methods of accounting to be followed are set forth.⁴² Other methods or the use of books other than those furnished by the national union is prohibited and the locals whose officers fail to comply with the rules prescribed are subject to fines or suspension. These printed books serve both to simplify the work of the local financial officers and to avoid losses to the national unions arising from confusion and errors in accounts. Each local secretary having printed instructions before him on his ledger page, with debit and credit columns plainly marked off, with balance sheets prepared and other printed devices for simplifying his task, even if untrained in business methods, finds little difficulty keeping correct accounts or

⁴² These books are sold to the locals by the central office at a price slightly above their cost.

otherwise performing his duties satisfactorily. The auditing of local accounts is likewise simplified through the use of a uniform system of local accounting. Although in a large number of unions, this is a matter left entirely to the local branches, several of the more highly centralized national organizations have inserted provisions in their constitutions, requiring the periodical audit of the books kept by local officers. Thus, the International Association of Machinists, the International Typographical Union, the Granite Cutters, the Locomotive Engineers, and the Boot and Shoe Workers require a regular audit of local accounts by a committee, elected for that purpose, once every three months, while the Brotherhood of Carpenters and Joiners and the Cigar Makers' International Union require a monthly audit. These provisions, even though enforced with great effort, owing to the difficulty of enforcing penalties for neglect, furnish the national organizations with some means of discovering errors or misappropriations on the part of local officers.⁴⁸

The Cigar Makers' International Union until recently was the only American national labor organization which, in addition to a local auditing committee, regularly employed men to travel from one local to another, examining the accounts of the officers and instructing them in their duties. These men, known as "financiers," are appointed by the president of the union and receive a salary of not less than eighteen dollars per week and expenses. Should, upon examination, discrepancies be discovered in the local account, the "financier" has power to suspend the officer, and should there be evidence of misappropriation or fraud,

⁴⁸ In most cases the local auditing committees report directly to the local membership. The laws of the International Typographical Union (Book of Laws, 1905, p. 42), however, require the report to be made to the national Secretary-Treasurer, and should inaccuracies appear therein, it is the duty of the international President to appoint an expert accountant to examine the local's books and financial records for the purpose of detecting errors or misappropriations. The Cigar Makers' International Union has a similar constitutional provision.

he may order his arrest. In spite of the fact that under the "common fund" system of finance of the Cigar Makers, the custody of all general funds is entrusted to local officers, the percentage of loss from misappropriation or embezzlement is less than in the unions organized under the central fund system, in which the national revenues are remitted periodically to the central office and held by the responsible officers of the national union.⁴⁴

(c) The superior showing of the local financial management of the Cigar Makers' International Union is especially noteworthy because of the absence of bonding provisions in the constitution. The safety of the local funds is secured by means of a joint responsibility placed upon the local officers who act as trustees. Each local union is required to deposit in an appointed bank or to purchase registered bonds of the United States and Canada all moneys over a specified amount, varying in each union according to the size of its membership.⁴⁵ The funds can only be deposited or withdrawn by the local treasurer in the presence of at least two trustees, and "these officers shall be held responsible for neglect of duty."⁴⁶ The deposit of funds or the purchase of bonds must be done by and in the name of the trustees and with the advice of the union. By this system of joint control there is little possibility in the Cigar Makers of gross dishonesty upon the part of a single officer. Consequently the losses from this source are very small, amounting on an average to less than \$200 per annum.

In this respect, however, the case of the Cigar Makers' International Union is somewhat exceptional. In other American trade unions, maintaining an inferior grade of discipline, the heavy losses resulting from the dishonesty of local offi-

⁴⁴ See ante, p. 16.

⁴⁵ Unions with 25 members or less can keep on hand \$25; 50 or less, \$35; 100 or less, \$60; 250 or less, \$75; 500 or over, \$100 (Constitution, sec. 169).

⁴⁶ Constitution, sec. 160. The President of the Union acts as custodian of the bank book and "as general supervisor of all deposits."

cers are a serious cause of financial weakness. Thus, in the Brotherhood of Decorators and Painters, during 1902, more than \$10,000 was lost through local defalcations, while losses from the same cause in the International Association of Machinists during the two years of 1899-1901 aggregated \$8429.⁴⁷ Even in the older and better disciplined unions, such as the Iron Molders' and the International Typographical, the defalcations of local officers with union funds are not of infrequent occurrence.⁴⁸

Although in a great majority of trade unions the losses resulting from the dishonesty of local officials are borne by the locals themselves and not by the central treasury, the latter, nevertheless, suffers indirectly through the impoverishment or, as frequently happens, the bankruptcy of the local. Moreover, the dishonesty of a member in whom a trust has been reposed has an injurious effect upon the entire membership, causing them to lose confidence in the union and its principles. Accordingly, it is the aim of the most progressive national organizations to minimize this evil as far as possible, first, by the introduction of improved systems of local accounting such as we have already described, and, secondly, by requiring the strict bonding of local officers handling union funds. Thus, the Typographical Union, the Machinists, the Retail Clerks, the Painters and Decorators, the United Mine Workers, the Boiler Makers and the Journeymen Barbers have adopted constitutional provisions requiring the local unions to bond their financial officers. These provisions, however, are largely ignored and since the national officers experience great difficulty in enforcing them upon the locals, they prove almost entirely inoperative.⁴⁹

A new method of overcoming these difficulties, lately adopted by a few national unions, is an arrangement with

⁴⁷ *Machinists' Journal* (1901). Vol. XIII, p. 471; see also Vol. XV, p. 486.

⁴⁸ See *Iron Molders' Journal*, August, 1904.

⁴⁹ Generally, the bonds are filed with the locals. The Painters the Decorators and the Boiler Makers, however, require that the bond be filed with the national Secretary-Treasurer.

a surety company for a "blanket" bond covering all losses from misappropriation and embezzlement on the part of local secretaries and treasurers under their jurisdiction. This plan has been followed with success by the Railway Trainmen, the Railroad Telegraphers and the Locomotive Firemen, and has been recently adopted by the Retail Clerks' International Protective Association and the Journeymen Barbers' International Union. Bonding companies, from experience, however, have found that the risk is very great and refuse to make such contracts unless they are paid high premium rates, and then only if certain regulations regarding auditing and accounting are complied with by the local unions.⁵⁰

⁵⁰ For example, a bonding company agreed to underwrite the losses from local defalcations in the Amalgamated Meat Cutters' and Butcher Workmen's Unions, but after a few months, owing to the large number of shortages that occurred, gave up the undertaking. The Journeymen Barbers' International Union had a similar experience in 1904; see *Proceedings of Eleventh Convention of the Journeymen Barbers' International Union* (1904), pp. 50-51.

APPENDIX.
FINANCIAL ACTIVITIES OF REPRESENTATIVE AMERICAN TRADE UNIONS.

UNION.	NATIONAL DUES (PER CAPITA TAX). ¹	LOCAL DUES.	FUNCTIONS AND ACTIVITIES OF NATIONAL UNIONS.		
			PROTECTIVE.	BENEFICIARY.	SUNDRY.
Journymen Bakers' and Con- fectioners' Union.	20c. monthly (\$1.00 initiation fee).	(Not stated.)	Strike assistance, rate determined by Execu- tive Board.		Official Journal fur- nished members gratis.
Boot and Shoe Workers' Union.	16 $\frac{3}{4}$ c. weekly (66 $\frac{3}{4}$ c. initia- tion fee).	25c. weekly (\$1.00 initiation fee).	Strike assistance, rate determined by condi- tion of strike fund.	Death benefit, \$50.00 after 6 months' stand- ing; \$100 after two years' standing.	Union stamp agita- tion. Journal fur- nished members gratis.
Journymen Barbers' Interna- tional Union.	35c. monthly.	(Not stated.)	(Not stated.)	Death benefit, \$60.00 to \$500 according to length of membership. Sick benefit, \$5.00 per week.	Organizing and Leg- islative agitation. Mile- age of convention dele- gates paid.
United Brew- ery Workmen.	25c. monthly (\$1.00 initiation fee).	Minimum, 50c. monthly.	Strike benefit limited to \$5.00 per week.	(None.)	Official Journal fur- nished members gratis.
Brotherhood of Carpenters and Joiners.	20c. monthly.	Minimum, 50c. monthly.	Strike assistance granted only when locals are engaged in "general" strikes and when condition of gen- eral funds warrant.	Death benefit, \$100 after 6 months' stand- ing; \$200 after 2 years. Wife funeral benefit, \$25. Total disability benefit of \$100 to \$400 according to length of membership. ²	(None.)

Cigar Makers' International Union.	(See Chapter I, pp. 15-16.)	30c. weekly (\$3.00 initiation fee).	Strike benefit, \$5.00 per week.	Death benefit, \$50.00 to \$500. ⁴ Wife funeral benefit, \$40.00. Sick benefit, \$5.00 per week. Out-of-work benefit, \$3.00 per week. Travelling loan. ⁵	Union label agitation. Journal furnished members gratis.
Coopers' International Union.	50c. quarterly (\$50c. initiation fee).	(Not stated.)	Strike benefit, \$4.00 per week.	(None.)	(None.)
International Brotherhood of Elec. Workers.	30c. monthly (\$2.00 initiation fee).	Minimum, 60c. monthly (\$5.00 initiation fee).	Strike assistance, rate determined by the Executive Board.	Funeral benefit, \$100.	Convention expenses paid from National funds.
Amalgamated Glass Workers' Union.	15c. monthly (\$50c. initiation fee).	Minimum, 25c. per month (\$1.00 initiation fee).	Strike benefit, \$5.00 per week. ¹⁰	Death and total disability benefit, \$50.00 after one year's standing; \$100 after two years.	(None.)
Iron Molders' Union.	18c. weekly (\$2.00 initiation fee).	Uniform, 25c. weekly (\$5.00 initiation fee).	Strike benefit, \$7.00 per week.	Graded death benefit, \$100 after 6 months' standing; \$150 after 5 years' standing; \$175 after 10 years' standing; \$200 after 15 years' standing.	Organizing. Journal furnished members. ⁶ Convention expenses paid by National Union.
International Association of Machinists.	40c. monthly (\$1.00 initiation fee).	Minimum, 75c. monthly.	Strike benefit, single men \$4.00 per week; married men, \$6.00 per week.	Graded death benefit, \$50.00 after 6 months' standing, etc.	Journal furnished members. Organizing.

APPENDIX. — (Continued.)

UNION.	NATIONAL DUES (PER CAPITA TAX).	LOCAL DUES.	FUNCTIONS AND ACTIVITIES OF NATIONAL UNIONS.		
			PROTECTIVE.	BENEFICIARY.	SUNDRY.
Amalgamated Sheet Metal Workers.	15 c. monthly.	(Not stated.)	Strike benefit, for single men, \$4 per week; for married men, \$5 per week. ¹²	Death benefit.	Journal furnished members gratis.
United Mine Workers.	10 c. monthly.	Minimum, 25 c. monthly.	Relief granted to members engaged in strikes.	(None.)	Organizing.
Pattern Mak- ers' League.	50 c. monthly.	Minimum, 25 c. weekly.	Strike benefit, \$7 per week.	Death benefit, \$50. Sick benefit, \$4 per week. Superannuation benefit.	Journal furnished members gratis. Con- vention expenses paid.
Journymen Tailors Union.	40 c. monthly. (\$1 initiation fee.)	Minimum, 20 c. per month.	Strike benefit, \$1 per day.	Graded funeral bene- fit, ranging from \$25 after six months stand- ing to \$400 after four years standing.	Mileage of Conven- tion delegates paid. Label agitation.
International Typographical Union.	40 c. monthly.	(Not stated.)	Strike benefit single men, \$5 per week; mar- ried men, \$7 per week.	Death benefit of \$70.	Organizing. Journal furnished members.

¹ Included in local dues, see p. 21.² A sick and death benefit granted to members paying \$5.00

per year in addition to regular dues.

³ Total disability through accident.⁴ According to period of membership.⁵ To begin thirty days after inauguration of strike.⁶ A nominal subscription fee of twenty-five cents charged.

**EARLY DIPLOMATIC NEGOTIATIONS OF
THE UNITED STATES WITH RUSSIA**

SERIES XXIV

NOS.

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J. M. VINCENT
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Editors

EARLY DIPLOMATIC NEGOTIATIONS
THE UNITED STATES WITH RUSSIA

BY
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TABLE OF CONTENTS.

	PAGE.
CHAPTER I. Dana's Mission to Russia.....	9
CHAPTER II. The Beginning of Formal Relations.....	31
CHAPTER III. Adams's Mission	44
CHAPTER IV. The Russian Offer of Mediation.....	58
CHAPTER V. The Question of Consular Immunity.....	91
CHAPTER VI. Pinkney's Mission.....	108
CHAPTER VII. Spanish-American Affairs.....	119
CHAPTER VIII. Russian Arbitration in Reference to the Treaty of Ghent	146
CHAPTER IX. The Treaty of 1824.....	157
CONCLUSION	193
AUTHORITIES, MANUSCRIPT SOURCES.....	195

PREFACE.

In this introductory study of the relations of the United States with Russia it is proposed to narrate the history of the rise and progress of the early diplomatic relations of the American government to that country and the steps by which the negotiations were carried forward. The policy of a nation cannot be read in its treaties alone. Nor is diplomatic history to be written merely from negotiations that have been brought to a successful conclusion. It is in the unsuccessful negotiations together with the completed ones that the aims and ambitions of a government are shown. In this investigation the chief sources of information are in the diplomatic archives of the Department of State, at Washington. Wherever any of these have been published I have endeavored, for the convenience of the reader, to give the reference to the most available printed source. I am deeply grateful to Mr. Pendleton King, Chief of the Bureau of Indexes and Archives of the Department of State, for permission to examine the archives in his charge, and to Mr. George H. Schultze, of the same Department, for his very courteous assistance. I am also obliged to Professors J. M. Vincent, W. W. Willoughby, and Dr. J. S. Reeves for reading my manuscript and for their suggestions, and also to Professor A. C. McLaughlin for information as to the letters of William Short. This study was the outcome of reports in the American History Seminary of the Johns Hopkins University, and I am under the greatest obligations to Professor J. C. Ballagh, without whose scholarly advice and constant encouragement it would never have been completed.

J. C. H.

EARLY DIPLOMATIC NEGOTIATIONS OF THE UNITED STATES WITH RUSSIA.

CHAPTER I.

DANA'S MISSION TO RUSSIA.

As early in the Revolution as December, 1776, Congress thought of sending a minister to Russia.¹ The American commissioners at Paris had advised that, "if expense was no objection," Russia should not be neglected with regard to a minister.² But none was sent. This was due possibly to the expense and probably to the opinion which lasted down into 1779 that Russia was at least apathetic, if not hostile to the United Colonies. It was known that England was negotiating with her for an alliance; and it was widely reported that she would send twenty thousand Russian soldiers to America.³ But as time went on it became known that England could not secure any assistance from Russia, while the American agents in Europe reported that the Empress Catherine was no longer favorably disposed toward Great Britain.⁴

¹ Committee of Secret Correspondence to Commissioners at Paris. Dec. 30, 1776. Wharton, *Diplomatic Correspondence of the American Revolution*, vol. 2, p. 241.

² Franklin and Deane to Committee of Secret. Correspondence. March 12, 1776. *Ib.*, p. 288.

³ J. Adams to President of Congress. Aug. 4, 1776. *Life and Works of John Adams*, vol. 4, pp. 108-109; Arthur Lee to Deane. Oct. 4, 1776. Deane Papers in the Collections of the New York Historical Society, vol. 1, p. 304; Deane to Secret Committee. Paris, Dec. 1, 1776. *Ib.*, p. 382; Deane to Dumas. Jan. 7, 1777. 2 *Ib.*, p. 69; Franklin and Deane to Secret Committee. March 12, 1776. Wharton, *Dip. Cor. Rev.*, vol. 2, p. 288; Washington to R. H. Lee. Nov. 18, 1777. Sparks, *Writings of George Washington*, vol. 5, p. 159.

⁴ Arthur Lee to Committee of Foreign Affairs. Paris, Nov. 27, 1777. Wharton, *Dip. Cor. Rev.*, vol. 2, p. 429; Franklin, Lee, and

In order to protect her growing commerce, which had suffered losses and inconveniences from both England and France and her allies, the Empress Catherine of Russia published on March 8 (N. S.), 1780, a declaration in which she stated the following principles, viz., that neutral ships should enjoy a free navigation even from port to port and on the coast of belligerent powers; that free ships freed all goods except contraband; that contraband goods were arms and ammunitions of war and nothing else; that no port was blockaded unless the enemy's ships in adequate number were near enough to make the entry dangerous. These principles were to rule decisions in the legality of prizes, and the Empress expressed her determination to maintain them by force of arms.⁵ Copies of this declaration were sent by the Empress to the neutral and belligerent powers but not to the United States, as she had not yet recognized them as a nation. Russia then hastened to invite the neutral maritime nations of Europe to unite with her in supporting the rules which she had proclaimed. Sweden and Denmark complied and in July, 1780, agreed, by mutual treaties, to support each other by reprisals and other means against all and every attack.⁶

To John Adams, then in Paris, it appeared that this declaration by Russia would have a very favorable influence upon the American struggle for independence. He wrote to Congress that this position would be more beneficial to the United States than to any other nation, as they would be carriers and, he hoped, neutrals forever, and that it would destroy all hope of aid for England from Russia and at the

Adams to President of Congress. Passy, Nov. 7, 1778. 2 *Ib.*, p. 831; J. Adams to President of Congress. Aug. 4, 1779. 3 *Ib.*, pp. 279-285; same to same; Corunna, Dec. 16, 1779, *Ib.*, p. 428; same to same; Paris, Feb. 20, 1780, *Ib.*, p. 509. E. Boudinot to his wife, March 5, 1779. Boudinot, *Life of Elias Boudinot*, vol. 1, pp. 177-178.

⁵ J. Adams to President of Congress. Paris, April 10, 1780. Wharton, *Dip. Cor. Rev.*, vol. 3, pp. 606-607; Bancroft, *History of the United States*, vol. 10, pp. 280-281.

⁶ 10 Bancroft, p. 429.

same time force the other maritime powers of Europe to become neutrals or join against England.⁷ From Amsterdam he wrote that, according to a report from London, one of the first acts of the Maritime Confederacy, as the alliance between Russia, Sweden, and Denmark was called, would be the acknowledgment of American independence; and that he wished that the United States had a minister in Russia.⁸

The news of the Empress's declaration reached the United States during one of the dark periods of the Revolution. The fall of Charleston had placed the South under the control of the British. On August 16, 1780, the American army under Gates was crushingly defeated at Camden. If there was any advantage to be gained from the Russian declaration Congress determined to obtain it. On October 5, 1780, Congress passed a resolution by which the board of admiralty were to prepare for the commanders of the "armed vessels commissioned by the United States" instructions conformable to the principles of the Empress of Russia's declaration. In addition the ministers plenipotentiary of the United States were empowered to accede, if invited to do so, to such regulations which might be agreed upon by a congress which was expected to meet at the invitation of the Empress, provided they conformed to the spirit of the declaration.⁹

In accordance with its over-zealous policy of sending ministers to those courts of Europe at which there appeared the slightest prospect of obtaining aid or recognition, Congress, on December 15, 1780, decided to send a minister to Russia, and on the following Monday, December 19, Francis Dana of Massachusetts was selected.¹⁰

⁷ J. Adams to President of Congress. April 26, 1780. Wharton, *Dip. Cor. Rev.*, vol. 3, p. 633.

⁸ J. Adams to President of Congress. Sept. 16, 1780. Wharton, *Dip. Cor. Rev.*, vol. 4, p. 57.

⁹ Secret Journals of Congress, Foreign Affairs, vol. 2, p. 576; Journals of Congress, vol. 3, p. 534.

¹⁰ Secret Journals of Congress, F. A., vol. 2, pp. 357, 358.

By his instructions Dana was informed that the great object of his mission was "to engage her Imperial Majesty to favor and support the sovereignty and independence of the United States" and to open up friendly relations between the two countries; and that it was "a leading and capital point that these United States shall be formally admitted as a party to the conventions of the neutral maritime powers."¹¹ In thus instructing Dana Congress misunderstood the nature of the confederation proposed by the Empress Catherine. The maritime convention was to be nothing more than an association of neutral powers to maintain their rights, and as long as the United States continued to be a belligerent it could make no formal accession to such a confederacy.¹²

In addition Dana was empowered to propose a treaty of amity and commerce with Russia which was to be "founded upon principles of equality and reciprocity and for the mutual advantages of both nations and agreeable to the spirit of the treaties existing between the United States and France."¹³

Dana was instructed to communicate his mission to the French minister at St. Petersburg and to find out through him the disposition of the Russian court towards the United States. If his inquiries led him to believe that he had "a fair prospect of an honorable reception," he was to announce his public character and present his letter of credence, together with the resolution of October 5, 1780, by which Congress declared its assent to the Empress's declaration of neutrality.¹⁴

Dana, who was in Paris as secretary to John Adams, did not receive the news of his appointment until about the middle of March, 1781.¹⁵ Then, in accordance with his in-

¹¹ *Ib.*, pp. 362-365.

¹² Dana, in a letter to Livingston, Sept. 5, 1782, calls attention to this fact. Wharton, *Dip. Cor. Rev.*, vol. 4, p. 700.

¹³ *Secret Journals of Congress*, F. A., vol. 2, pp. 358-359.

¹⁴ *Ib.*, pp. 362-365.

¹⁵ Dana to President of Congress, March 24, 1781. Wharton, *Dip. Cor. Rev.*, vol. 4, p. 325.

structions, he applied to Franklin and Adams for advice concerning his future course.¹⁶ Franklin advised him to apply to Vergennes, the French minister of foreign affairs, for information as to whether it would be proper for him to communicate with the Russian court about the object of his intended visit, and to obtain its consent before he set out for that country.¹⁷ Dana considered that such a communication to the Russian government would draw down upon his head an absolute prohibition.¹⁸ He, therefore, only informed Count Vergennes of his mission to St. Petersburg and requested the advice and assistance of the French minister there, saying that it was not his intention to assume any public character on his arrival at the Russian capital but to appear only as a private citizen until his inquiries "should point out a ready and honorable reception."¹⁹ At an interview on April 4, 1781, Vergennes, while he did not oppose Dana's mission, pointed out to him the difficulties which would lie in his way. He told Dana that, although the resolution of Congress concerning neutrality with which he was charged had been well received on the part of Russia, he did not approve of his going there in his public character but advised him, on the other hand, to consult the Russian minister at the Hague as to the propriety of his going as a private person proposing to make a trip to Russia.²⁰

¹⁶ Dana's instructions, Dec. 19, 1780. *Ib.*, p. 201. Franklin was then minister plenipotentiary to the Court of Versailles, and Adams minister to negotiate peace with Great Britain. Adams had also been appointed agent to Holland. *Secret Journals of Congress*, F. A., vol. 2, pp. 314-315.

¹⁷ Dana to President of Congress. March 24, 1781. *Ib.*, 326.

¹⁸ Dana to President of Congress. March 24, 1781. Wharton, *Dip. Cor. Rev.*, vol. 4, p. 326.

¹⁹ Dana to Count Vergennes. March 31, 1781. *Ib.*, p. 343.

²⁰ Dana to President of Congress. April 4, 1781. *Ib.*, pp. 349-351. This resolution was that of October 5, 1780 (see page 11, above), copies of which John Adams had sent to Prince Gallitzin and Vergennes to Verac. J. Adams to Prince Gallitzin. Leyden, March 8, 1781. Wharton, *Dip. Cor. Rev.*, vol. 4, pp. 275-276; Report of Communication from the French minister, July 23, 1781. *Ib.*, p. 601.



Disappointed at this lack of encouragement, Dana again appealed to Franklin as to what course he should take. Franklin replied that although it would have been far better, in his opinion, if Congress had never issued commissions for ministers until they had first privately learned whether they would be received, yet, since Dana's commission was given, and Congress seemed to expect, although they did not absolutely require, that he should go immediately, he thought it would be right for him to go. He advised, however, that he go in the private character, unless Adams and Prince Gallitzin, the Russian minister at the Hague, should advise delay.²¹

Dana then turned to Adams for advice.²² Adams counselled him to travel at once to St. Petersburg "in the character of a gentleman, without any distinction of public or private, as far as the publication of your appointment already made known in France will permit." He considered that it would be improper for Dana to communicate with either the Russian court or the Russian minister at the Hague; but that following out his instructions he should ask advice only of the French minister at St. Petersburg. "No measure of Congress," wrote Adams, "was ever taken in a more proper time and with more wisdom than the appointment of a minister at the Hague and at St. Petersburg."²³ This advice coinciding with his own opinion, Dana set out for Russia and reached St. Petersburg August 27 (N. S.), 1781.²⁴

In the meanwhile the courts of St. Petersburg and Vienna had offered their mediation to France and England. In the

²¹ Franklin to Dana. April 7, 1781. Wharton, *Dip. Cor. Rev.*, vol. 4, pp. 353-354. "... I have long imagined that we let ourselves down in offering our alliance before it is desired, and that it would have been better if we had never issued commissions for ministers to the courts of Spain, Vienna, Prussia, Tuscany, or Holland, till we had first privately learnt whether our agents would have been received, since a refusal from one is an actual slight that lessens our reputation and makes others less willing to form connexions with us."

²² Dana to Adams. April 18, 1781. *Ib.*, p. 368.

²³ J. Adams to Dana. Leyden, April 18, 1781. *Ib.*

²⁴ Dana to Adams. St. Petersburg, Aug. 28, 1781. *Ib.*, p. 679.

early part of March, 1781, Vergennes informed Franklin of this offer and told him that the king of France had answered that, while it would be agreeable to him personally, yet he could not accept it, because he had allies whose concurrence was necessary. Vergennes further told Franklin that the king desired him to urge Congress to send instructions accepting this proposal.²⁵

Urged by France and influenced by the reports from the American ministers abroad that Russia was hostile to England, Congress, on June 8, 1781, instructed Jay, Jefferson, Laurens, Franklin, and Adams, the commissioners appointed to negotiate peace with Great Britain, to concur with the king of France in accepting the proposed mediation, but to undertake nothing without the knowledge and concurrence of the king's ministers.²⁶

Every independent action on the part of the American ministers was most distasteful to the French cabinet. It was their desire that the American government should give its agents only broad outlines of its policy, and that in carrying this policy into effect the American ministers should receive their instructions from the French minister of foreign affairs and take no step without the consent of the French government.²⁷ While France had gone to war to secure American independence, it was her purpose that when the colonies had secured their liberty they should be bound by gratitude to follow her lead in international and commercial affairs.

²⁵ Franklin to President of Congress. March 12, 1781. Wharton, *Dip. Cor. Rev.*, vol. 4, p. 282; *Secret Journals, F. A.*, vol. 2, pp. 418-419; Vergennes to Montmorin. Dec. 15, 1781. Doniol, *Participation de la France à l'Établissement des États-Unis d'Amérique*, t. 4, pp. 523-524.

²⁶ *Secret Journals, F. A.*, vol. 2, pp. 434-435; Franklin to J. Adams. Aug. 16, 1781; President of Congress to Adams. June 20, 1781. John Adams, *Works*, vol. 7, pp. 456-457; Carmichael to Committee on Foreign Affairs. Jan. 4, 1781. Wharton, *Dip. Cor. Rev.*, vol. 4, p. 227; same to same. Feb. 12, 1781. *Ib.*, p. 265; same to same. March 4, 1781. *Ib.*, p. 272.

²⁷ J. Adams to Livingston. Feb. 21, 1782. *Ib.*, vol. 5, pp. 198-199. Report of conference with French minister, Luzerne. May 28, 1781. *Ib.*, vol. 4, pp. 456-457.

And so France did not desire the recognition of the United States by any other European power until it suited her interests, for she feared that as the allies of the new nation increased French influence would decrease in the same proportion.²⁸

On May 28, 1781, the committee of Congress, which had been appointed to confer with the French minister in the United States, reported that the minister had communicated to them parts of a despatch from Count de Vergennes, dated March 9, 1781. In this despatch it was stated that it was the opinion of the king of France that Dana's appointment was premature, to say the least, and that he ought not to make any use of his powers at that time. And in case Dana should apply to the Count de Vergennes for advice he would be requested to delay his mission, as the Count believed that it would be disagreeable to Congress to have their dignity offended by the refusal which their plenipotentiary would be sure to receive.²⁹

In the face of the disapproval of France, Dana arrived in St. Petersburg and, in accordance with the instructions of Congress, put himself into communication with the Marquis de Verac, the French minister there. Verac wrote him not to make known his mission nor to make any advances to the Russian court. For, he said, although the United States were to take part in the pacification and the mediators desired that the envoys of the United States should be admitted to the congress which was to regulate the pretensions of the belligerents, that they might there protect their own interests, yet Russia, carefully avoiding the slightest indication of partiality to either of the belligerent powers, would not be likely to recognize the minister of a power which had not yet in

²⁸ See Lyman's *Diplomacy of the United States*, vol. 1, pp. 91, 124-128, 429, and compare France's dissatisfaction at the Jay treaty. Schouler, *History of the United States*, vol. 1, p. 325.

²⁹ Report of conference with the French minister, Luzerne, May 28, 1781. Wharton, *Dip. Cor. Rev.*, vol. 4, pp. 453-457. Vergennes did not, however, request Dana to defer his mission. See *ante*, p. 13.

her eyes a political existence, and thus expose herself to the complaints of the court of London.⁸⁰

Such advice did not accord with Dana's ambitious plans. He answered that for the Empress to admit the United States to the congress was to rank them among the belligerents and was in a manner to acknowledge their independence. He proposed therefore to communicate confidentially to the proper minister of the Empress his public character and the general object of his mission, and to ask his advice as to the proper time for presenting to the Empress a short memorial on the state of the colonies and their prospects.⁸¹

Thereupon Verac replied that Dana did not seem to be correctly informed about the proposed pacification, for the mediating courts intended that the American envoys should treat only with the English; that the result of their negotiations should determine upon what footing the United States ought to be regarded by the other powers, and that their public character would be acknowledged without difficulty from the moment the English themselves interposed no objection. "It is therefore clear," wrote Verac, "that their (the mediators') design is to avoid compromising themselves by acknowledging the independence of the United States until England herself shall have taken the lead."⁸² Such being the opinion of the French minister, Dana determined to wait before taking his proposed step until the answer of the courts of Versailles and Madrid to the plan of pacification had been received.⁸³

Dana had gone to Russia with the suspicion that France was jealous of his attempt to secure the recognition of American independence by Russia. He considered that this

⁸⁰ Dana to J. Adams. Aug. 28, 1781. Wharton, *Dip. Cor. Rev.*, vol. 4, p. 679.

⁸¹ Dana to Verac. Sept. 4, 1781. *Ib.*, pp. 695-699.

⁸² Verac to Dana. Sept. 12, 1781. Wharton, *Dip. Cor. Rev.*, vol. 4, p. 706.

⁸³ Dana to Verac. Sept. 13, 1781. *Ib.*, p. 707.

suspicion was confirmed by Verac's coldness and delay in answering his letters, and then by the fact that his mail had been opened in Paris.³⁴ Like Adams,³⁵ Carmichael,³⁶ and Jay³⁷, Dana saw that France did not desire the recognition of the independence of the United States until it suited her interest. He early perceived that he was not likely to receive any assistance from Verac and that he must proceed alone with his mission or remain totally inactive.³⁸

Although actuated by selfish motives, the unwillingness of France to see Dana recognized by the Russian court was explained by Vergennes to be due to a desire to prevent his receiving a humiliating refusal which an application for reception at that time would have brought him.³⁹ Dana's appointment was premature. Russia had little to gain by the independence of the United States. It was the general opinion that American products would rival those of Russia in the markets of the world.⁴⁰ As an absolute monarch Catherine had a wholesome horror of rebels and could not be expected to aid them.⁴¹ This was a period of Russian expansion in Poland, Turkey, and the Baltic Sea trade, and Catherine was not sorry to see her rivals there, France and England, weakened in any possible way. Hence, notwithstanding her aversion for rebels, she endeavored to frighten England into a humiliating peace by having expressed to the English minister at her court her wishes for the success of

³⁴ Dana to J. Adams. Aug. 28, 1781. *Ib.*, p. 680; same to same. Oct. 15, 1782. *Ib.*, vol. 5, p. 816; Verac to Dana. Sept. 12, 1781. *Ib.*, vol. 4, p. 707.

³⁵ J. Adams to Livingston. Feb. 21, 1782. *Ib.*, vol. 5, pp. 198-199; same to same. Sept. 6, 1782. *Ib.*, p. 703.

³⁶ Carmichael to Livingston. Sept. 29, 1782. *Ib.*, p. 785.

³⁷ Jay to Livingston. Sept. 18, 1782. *Ib.*, p. 740.

³⁸ Dana to President of Congress. Sept. 15, 1781. *Ib.*, vol. 4, p. 714.

³⁹ *Secret Journals*, F. A., vol. 2, pp. 415, 416.

⁴⁰ Deane to Jesse Root. May 20, 1781. *Deane Papers*, vol. 4, p. 354; Dana to Livingston. Sept. 29, 1782. *Wharton, Dip. Cor. Rev.*, vol. 5, p. 780; J. Adams to President of Congress. Aug. 4, 1779. *J. Adams, Works*, vol. 8, pp. 108-109.

⁴¹ *Wharton, Dip. Cor. Rev.*, vol. 4, p. 714, note; *The Nation*, vol. 6, p. 468.

the Americans.⁴² Yet, on the other hand, she would do nothing which would increase the prestige of France. England had offered the island of Minorca to Russia in return for aid, and finally renewed the offer of it to her if she should only affect a restoration of peace between Great Britain, France, and Spain on the *uti posseditis* basis. She made the express condition, however, that the French evacuate America, and that no stipulation or agreement whatever should be made with respect to his Britannic Majesty's rebellious subjects, who would never be permitted to treat through the medium of a foreign power.⁴³ Here was an opportunity of increasing the prestige of Russia and at the same time weakening France and England. If it could be accomplished by mediation the Empress would become the recognized leader in European affairs. At this juncture the United States sent a minister applying for recognition. By acknowledging American independence Russia would destroy all hope of England's ever submitting to her mediation. In refusing, therefore, to receive an American minister until England should take the lead (as Verac had informed Dana she would do), Russia took a position which was not only sustained by international law⁴⁴ but which was perfectly justifiable from the standpoint of Russian interests.

However irksome the advice of Verac may have been to Dana, in America it was considered sound and just.⁴⁵ Livingston, now secretary of foreign affairs, wrote to Dana that his suspicions with regard to France were considered by Congress as groundless, and that it was evident his zeal had biased his judgment.⁴⁶ By an earlier despatch he informed

⁴² Sir James Harris to Viscount Stormont, March 24, 1780. Diaries and Correspondence of James Harris, Earl of Malmesbury, vol. 1, p. 289.

⁴³ Viscount Stormont to Sir James Harris. Jan. 20, 1781. Malmesbury Papers, vol. 1, pp. 373-375.

⁴⁴ Lawrence, Principles of International Law, p. 88.

⁴⁵ Livingston to Dana. May 10, 1782. Wharton, Dip. Cor. Rev., vol. 5, pp. 411-414.

⁴⁶ Ibid.

Dana that as the Empress, influenced perhaps by the ambition of being at the same time legislator and arbiter of Europe, wished to be the means of reëstablishing peace and to see her project of the armed neutrality successful, it could hardly be expected at that critical period that she would publicly receive a minister from the United States. Therefore Dana was to appear only in his private character until he had an absolute certainty that he would be received and acknowledged.⁴⁷ Two months later, after again rebuking Dana for his suspicions of France, Livingston instructed him to delay communicating his powers to the Russian court, if he had not yet done so, until the Marquis de Verac should consent or he should receive further orders from Congress.⁴⁸ A week later Congress passed a resolution by which Dana was ordered not to present his letter of credence until he had obtained assurance of his being duly received and recognized.⁴⁹

After the receipt of the news of a change in the British cabinet Dana consulted Verac about disclosing his mission. Again Verac opposed such a step. Dana, however, believing that the question of commerce was the main obstacle which prevented Russia's recognition of the United States, drew up a memorial showing that the commerce of Russia would not suffer by the independence of America and had it communicated indirectly to the Russian cabinet. He was assured that it was not unacceptable.⁵⁰

The long months of waiting became so tedious to Dana that had it not been for the positive orders of Congress he would have ventured to have demanded his recognition.⁵¹ When the British commissioners had received powers to

⁴⁷ Livingston to Dana. March 2, 1782. Wharton, *Dip. Cor. Rev.*, vol. 5, p. 209.

⁴⁸ Same to same. May 10, 1782. *Ib.*, pp. 411-414.

⁴⁹ Secret Journals, F. A., vol. 3, p. 133.

⁵⁰ Dana to Adams. April 23, 1782. Wharton, *Dip. Cor. Rev.*, vol. 5, p. 323; Dana to Livingston. June 28, 1782. *Ib.*, pp. 528-532.

⁵¹ Dana to Livingston. Aug. 23 (Sept. 3), 1782. Wharton, *Dip. Cor. Rev.*, vol. 5, p. 700; same to same, Sept. 23, 1782. *Ib.*, p. 753.

enter into negotiations of peace with those of America, Dana again proposed to Verac that he should make known his mission, but the French minister persisted in his objections.⁵²

Bound down to a state of inaction by the injunction given by Congress of absolute certainty of success,⁵³ Dana hailed with delight the news that the preliminaries of peace had been signed between the United States and Great Britain (November 30, 1782).

As the Russian ministry was well enough informed of his business,⁵⁴ Dana now expected to be received at court. He intended to return home after having made a commercial treaty with Russia, since Congress did not allow him money enough to live like the other ministers.⁵⁵ He determined to wait, however, for new instructions before he acceded to the armed neutrality, since the United States would have no longer any interest in it after the war was over. But he hoped to have its leading principles adopted in the commercial treaty and thus accomplish all the points of his mission in one treaty.⁵⁶ In order to obtain this treaty he would need to have 4500 pounds sterling, for it was the custom that every nation entering into a treaty with Russia should pay to the four principal Russian ministers 6000 rubles apiece.⁵⁷ This sum Franklin and Adams agreed to remit to him.⁵⁸

When a copy of the preliminary treaty between England and the United States arrived, Verac said that though Dana might not now meet with an immediate refusal, yet his audience would be postponed upon various pretexts until the outcome of the negotiations of the European powers should

⁵² Same to same. Nov. 7/12, 1782. *Ib.*, vol. 6, p. 54.

⁵³ Dana to Commissioners at Paris. Jan. 14, 1783. *Ib.*, pp. 211-212.

⁵⁴ Dana to Adams. Jan. 4/15, 1783. *Ib.*, p. 213.

⁵⁵ Dana to Livingston. Dec. 16/27, 1782. *Ib.*, p. 170.

⁵⁶ Same to same. Dec. 19/30, 1782. *Ib.*, p. 172; same to same. Jan. 3, 1783. *Ib.*, p. 194; Dana to Adams. March 16, 1783. *Ib.*, p. 306.

⁵⁷ Dana to Livingston. Aug. 23 (Sept. 3), 1782. Wharton, *Dip. Cor. Rev.*, vol. 5, p. 701.

⁵⁸ Dana to Adams. Jan. 4/15, 1783. *Ib.*, vol. 6, pp. 212-213.

be known in St. Petersburg, and that should the war be continued he would have no audience at all. Having Verac's opinion so fully on the subject, Dana thought that there could be no question but that it was his duty, in accordance with the orders of Congress, to await the issue of the negotiations.⁵⁹

Then the news arrived in St. Petersburg that the preliminaries of peace between Great Britain, Spain, and France had been signed. Dana determined that he would delay no longer but would communicate his mission to the vice-chancellor, Count Ostermann.⁶⁰ Again he met with the opposition of the French minister, who advised that he wait until after the signing of the definite treaty, or at least until the British minister should have communicated the signature of the preliminaries of peace to the Russian court.⁶¹

On March 5, 1783, one of the members of the Empress's private cabinet came to see Dana and informed him that he could communicate his mission to the vice-chancellor at any time, but that while he might not receive an immediate answer the delay would not be occasioned by anything which concerned the United States or himself personally.⁶² Because of this assurance Dana, on March 7, 1783, without consulting Verac, communicated his mission to the vice-chancellor, Count Ostermann, and requested an audience in order to present his letter of credence, explaining that he had delayed thus long in doing so because of the express command of Congress that he should do nothing which might disturb the Empress's position of neutrality.⁶³

As soon as Sir James Harris, the British minister at St. Petersburg, had ascertained the truth of the reported step which Dana had taken, without any instruction from his

⁵⁹ Dana to Livingston. Jan. 4/15, 1783. *Ib.*, pp. 213-214.

⁶⁰ Same to same. Feb. 10, 1783. *Ib.*, p. 248.

⁶¹ Same to same. Feb. 14/25, 1783. *Ib.*, p. 263.

⁶² Dana to Livingston. March 12, 1783. Wharton, *Dip. Cor. Rev.*, vol. 6, p. 286.

⁶³ Dana to Ostermann. Feb. 24 (March 7), 1783; Dana to Livingston. March 7, 1783. *Ibid.*, p. 275.

home government, he protested to the Russian ministry that until "the ratification of the definitive treaty had taken place, the independence of America was not virtually constituted, and to negotiate with an American minister before that event was disclosed publicly would at least be a precipitate, if not an unjustifiable measure." He also said "that it was not sound policy in the Empress, at a moment when she was on the eve of a war (with Turkey), during the course of which she necessarily must want at least the influence, if not the assistance of Great Britain, to adopt a measure that would alienate forever the affections of that nation."⁶⁴ This threat of opposition to Russia's plans with regard to Turkey had its effect, and a few days later the British minister was assured that the Empress would certainly admit no American agent to her court until after the ratification of the definitive treaty, unless before that time Great Britain herself should receive one.⁶⁵

Russia then adopted a policy of delay with regard to Dana. On March 12 Dana received a verbal message from Ostermann acknowledging the receipt of his letter of the 7th,⁶⁶ but more than a month passed before he could obtain, by means of a second urgent letter, a conference with the vice-chancellor.

He was then informed first, that her Majesty could not consistently with her character as mediator receive a minister from the United States until the conclusion of a definitive treaty between France, Spain and Great Britain; second, that she could not do it even then, consistently with the laws of neutrality, while Dana's letter of credence bore a date prior to the acknowledgment of the United States by the king of Great Britain; third, that she could not do it

⁶⁴ Sir James Harris to Lord Grantham. March 11, 1783. Malmesbury Papers, vol. 2, pp. 36-38.

⁶⁵ Same to same. March 3/14, 1783. Bancroft MSS., America, Russia and England, vol. 2. Lenox Library, New York.

⁶⁶ Dana to Livingston. March 16, 1783. Wharton, *Dip. Cor. Rev.*, vol. 6, p. 286.

regularly while his letter of credence bore date before she herself had acknowledged their independence; fourth, that she could not do it consistently before a minister had been received from the United States by Great Britain. Dana asked the Count to give him a note containing the substance of his conversation, but this was refused.⁶⁷

A fortnight afterwards, Dana sent to Ostermann a memorial declaring that the Empress's objections were unsupported by any of the principles of international law, and that it would be impossible for the United States to revoke his present letter of credence because it was dated prior to the acknowledgment of their independence by Great Britain for the following reasons:

1. Because it would be to propose to the United States, in effect, to strike off nearly seven years of their existence as free, sovereign and independent states;

2. Because their compliance with it would amount to a confession on their part that they owed their existence as a free nation to the acknowledgment of their independence by the king of Great Britain;

3. Because it would go to annul all their acts of sovereignty prior to that period, and especially the treaties which they had made and the commissions which they had granted to their ministers;

4. Because it would be repugnant to a resolution contained in their Declaration of Independence, viz., "that as free and sovereign states they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all those acts which independent states may of right do."⁶⁸

This memorial, Dana informed Ostermann, contained his private sentiments upon the subject. He made this state-

⁶⁷ Dana to Livingston. April 14/25, 1783. Wharton, *Dip. Cor. Rev.*, vol. 6, pp. 392-396, and in *Papers of James Madison*, vol. 1, pp. 563-564.

⁶⁸ Dana to Ostermann. April 27 (May 8), 1783. Wharton, *Dip. Cor. Rev.*, vol. 6, pp. 411-415.

ment not only because it was the truth, but because it would give Congress liberty to disown the whole.⁶⁹

Dana was not sanguine of the success of this communication. He intended to wait a reasonable time and, if no answer was given or if the Empress still persisted in her stand, to communicate what had passed to the other foreign ministers at St. Petersburg and then return home with all speed. By so doing he considered that he would give Congress liberty to act, by affording an opportunity of sending another minister, if it should desire to do so, without being compelled to revoke his letter of credence, and of granting another bearing a date since the acknowledgment of the independence of the United States by Great Britain. But, for his part, as he wrote Livingston, he did not think the advantage of a minister at the Russian court would compensate the expense of it.⁷⁰

No reply to this memorial was made, although Dana was twice informed by a friend that he would receive a satisfactory answer.⁷¹ By this delay Dana thought the Russian ministry was awaiting the news, now daily expected, of the conclusion of the definitive treaty of peace, when all idea of the mediation would be at an end.⁷²

On June 14 Dana had a second interview with Ostermann, at which time the vice-chancellor read to him a note in which he said that Dana had taken in a wrong sense what he had said to him before concerning the date of his letter of credence. He declared that there had been no occasion for any question respecting the consequences which Dana had drawn from it, for the Empress would receive him with pleasure as minister as soon as the definitive treaties which

⁶⁹ Dana to Livingston. April 28 (May 9), 1783. *Ib.*, p. 417.

⁷⁰ Dana to Livingston. May 9, 1783. Wharton, *Dip. Cor. Rev.*, vol. 6, p. 417; same to same. May 2/13, 1783. *Ib.*, pp. 425-426; Dana to Adams. May 15, 1783. *Ib.*, p. 433.

⁷¹ Dana to Livingston. May 20, 1783. *Ib.*, p. 455.

⁷² Dana to Adams. June 6, 1783. John Adams, *Works*, vol. 8, p. 68; Dana to Livingston. May 26 (June 6), 1783. Wharton, *Dip. Cor. Rev.*, vol. 6, p. 477.

were then on the eve of being concluded between the belligerent powers should be consummated. He further stated that the Empress intended that not only Dana but also all Americans who should visit her empire either commercially or on other affairs should enjoy the most favorable reception and the protection of the law of nations. As this was an evident concession from the position taken by Ostermann on April 21, Dana therefore agreed to wait for his reception until after the conclusion of the definitive treaty of peace.⁷³

Dana's lack of success, his reports as to the small advantage to be gained by maintaining a minister at St. Petersburg,⁷⁴ and the advent of peace began to lessen in America the desire for a Russian alliance. As early as February 26, 1783, Livingston wrote to the president of Congress that he saw no reason for any longer detaining Dana in Russia, nor did he believe it desirable to keep a minister there even after peace had been made.⁷⁵ On April 1, 1783, Congress passed a resolution approving of Dana's intention to return to America, provided he should not be engaged in any negotiation with the Russian court at the time of the receipt of the resolution; but if he were, it was the desire of Congress that he should finish the negotiation before he returned.⁷⁶

In inclosing this resolution, Livingston, on May 1, wrote to Dana: "With respect to the neutral confederacy, it is a treaty which is now of little consequence to us and since we were not admitted to it during the war we ought not to pay for admission upon a peace; and with respect to a commercial treaty, none can be signed by you. Your powers only extend to 'communicate with her Imperial Majesty's ministers on the subject of a treaty,' etc., but not to sign it." Therefore Livingston thought Dana should have no trouble

⁷³ Dana to Livingston. June 6/17, 1783. Wharton, *Dip. Cor. Rev.*, vol. 6, pp. 494-495.

⁷⁴ Dana to Livingston. Jan. 20/31, 1783. *Ib.*, p. 235; same to same. April 28 (May 9), 1783. *Ib.*, p. 417.

⁷⁵ Livingston to President of Congress. Feb. 26, 1783. Wharton, *Dip. Cor. Rev.*, vol. 6, p. 264.

⁷⁶ Dana to Livingston. July 16/27, 1783. *Ib.*, p. 597.

about presents to the ministers, but if he should, he wrote; "I am persuaded that it is the wish of Congress rather to postpone any treaty with Russia than to buy one at this day."⁷⁷

Livingston's interpretation of Dana's powers to make a commercial treaty was not that of Congress, for on May 22, 1783, it passed the resolution "that Mr. Dana be instructed, in case he has not already proceeded too far, in the commercial treaty between the United States of America and the Court of Russia, to stipulate that the treaty be limited to the term of fifteen years; and that the same be subject to the revisal and approval of Congress before they shall be under obligation to accept or ratify it."⁷⁸

Livingston's letter of May 1, and the resolution of Congress of April 1, 1783, permitting Dana to return home, were received by him on July 27, 1783. He immediately wrote to Livingston that they came very opportunely, as the account of the definitive treaty of peace was expected at any moment, when he would have his audience; but the audience would now be inexpedient, for it would be a very useless ceremony to be received one day when on the next he would have to take his departure. He considered that no other course was now open to him but to leave at the earliest possible moment; therefore he wrote to Livingston, "according to your letter it seems that Congress declines being at the customary expense of concluding a treaty with her Imperial Majesty, but you say also, with respect to a commercial treaty (the only one I had any intention of concluding) none could be signed by me, as my powers only extend to communicate with her Imperial Majesty's ministers on the subject of a treaty, etc., but not to sign it. I confess I had put a very different construction upon the passage of my instructions alluded to . . . But it is useless to spend a moment's consideration upon the extent of my powers, when you say you are persuaded

⁷⁷ Livingston to Dana. May 1, 1783. *Ib.*, p. 403.

⁷⁸ Wharton, *Dip. Cor. Rev.*, vol. 6, pp. 437-441; *Secret Journals*, F. A., vol. 3, pp. 350-354.

that it is the wish of Congress rather to postpone any treaty with Russia rather than buy one at this day, as I am persuaded no treaty is to be obtained, or could be honorably postponed, without conforming, as other nations have done, to the ways of this court in that respect; and that it would be for the interest of the United States immediately to conclude a commercial treaty with her Imperial Majesty, such a one as I flatter myself I could obtain, I have not the least doubt in my mind." Dana therefore informed Livingston that he would return to the United States at the earliest opportunity.⁷⁹

Thereupon, Dana wrote Count Ostermann that, having obtained the permission of Congress, he intended to return to America in a few weeks, and therefore would not trouble the Empress about granting him an audience.⁸⁰ But fearing lest his departure might be misunderstood, Dana again wrote to the Count that his motives for leaving were due to his ill health and his private affairs; and that he would explain further if the Count would grant him an interview. This took place on August 16, and the vice-chancellor and Dana cordially took leave of each other. Dana, however, was persuaded that the Russian court would have preferred him to remain because they were afraid that Congress might resent the postponement of his audience until after the conclusion of the definitive treaty of peace.⁸¹ Shortly afterwards Dana left for the United States.⁸²

Dana's action in returning home proved to be a wise one. The occasion for his mission was at an end. The independence of the United States had been secured. Accession to the Armed Neutrality was no longer to be desired. It was

⁷⁹ Dana to Livingston. July 16/27, 1783. Wharton, *Dip. Cor. Rev.*, vol. 6, pp. 597-598; Dana to John Adams. July 29, 1783. John Adams, *Works*, vol. 8, p. 121.

⁸⁰ Dana to Livingston. July 28 (Aug. 8), 1783. Wharton, *Dip. Cor. Rev.*, vol. 6, p. 636.

⁸¹ Same to same. Aug. 17, 1783. *Ib.*, pp. 656-657.

⁸² Dana to President of Congress. Boston, Dec. 17, 1783. *Ib.*, p. 739.

rather to be avoided, for the United States, while readily acquiescing in the doctrines of that league, was not prepared to defend them by arms. Fearing, therefore, lest the new nation might become involved in the "policies and controversies of European nations," Congress declared by resolution that Dana's commission and instructions relative to the accession of the United States to the neutral confederacy no longer operated and that it was inexpedient to renew them either to Dana or to other ministers of the United States.⁸³ And in respect to a commercial treaty, Congress had already determined to limit greatly Dana's powers.⁸⁴

After the preliminaries of peace had been signed, Count de Vergennes asked the American commissioners if they intended to sign the definitive treaty under the mediation of the courts of St. Petersburg and Vienna.⁸⁵ As Vergennes appeared to favor such an action, and as the commissioners believed that it would be a public acknowledgment of their nation as an independent power by those two courts, they informed the French ministers that they would do so.⁸⁶ Of this course Vergennes expressed his approval.⁸⁷ But Hartley, the British minister, refused. Conferences therefore took place between Vergennes, Hartley, Franklin, and Adams on the subject. The French minister pretended to take a strictly impartial position, yet, as it was now clear that he was against the mediation, the matter was dropped.⁸⁸ Adams was sure that this opposition was due to an understanding between England and France to prevent the United States from taking too prominent a place in international affairs. "For," as he wrote to the president of Congress,

⁸³ Secret Journals of Congress, Foreign Affairs, vol. 3, pp. 367-368; Lyman's Diplomacy of the United States, vol. 1, pp. 432-435.

⁸⁴ Secret Journals of Congress, Foreign Affairs, vol. 3, pp. 350-354.

⁸⁵ Adams to Livingston. July 9, 1783. Wharton, Dip. Cor. Rev., vol. 6, p. 529.

⁸⁶ Same to same. July 12, 1783. *Ib.*, p. 539; same to same. July 16, 1783. *Ib.*, pp. 551-552.

⁸⁷ Same to same, July 16, 1783. *Ib.*, pp. 551-552.

⁸⁸ Adams to President of Congress. Sept. 5, 1783. *Ib.*, pp. 674-676; John Adams, Works, vol. 8, pp. 144-145.

"the signature of the two imperial courts would have made a deep and important impression in our favor upon full one half of Europe, as friends, to these courts, and upon full the other half as enemies. . . . From all the conversations I have had with the Count de Mercy and M. Markow, it is certain that the two courts wished, as the ministers were certainly ambitious, to sign our treaty. They and their sovereigns wished that their names might be read in America and there respected as our friends."⁸⁰

Although Dana's departure from Russia without being received at court was due to a misunderstanding, no one was sent to replace him. Congress still wished, however, to open negotiations, and on April 15, 1784, passed a resolution declaring that it would be advantageous to the United States to conclude treaties of amity and commerce with Russia, the Court of Vienna, Prussia, etc., and that a commission should be issued to John Adams, Benjamin Franklin, and Thomas Jefferson giving them, or the majority of them, power to make and receive propositions for such treaties.⁸⁰ But no such treaty with Russia was negotiated.⁸¹ When therefore in 1789 our Federal Constitution went into effect, diplomatic relations between the United States and Russia had not yet been established.

⁸⁰ John Adams to President of Congress. Sept. 5, 1783. John Adams, Works, vol. 8, p. 145.

⁸¹ Secret Journals, F. A., vol. 3, pp. 484-489.

⁸² On Aug. 29, 1786, John Jay, Secretary of Foreign Affairs, said in Congress: "Our treaties with France, the United Netherlands, Sweden, Russia, etc., stipulate to each 'the right of the most favored nations.'" (Secret Journals, F. A., vol. 4, p. 97). This mention of Russia was probably meant for Prussia, for a treaty between the United States and Prussia containing such an article, "article 2," was signed Sept. 10, 1785, and ratified by Congress May 17, 1786. (Secret Journals, F. A., vol. 4, p. 26; see also, Treaties and Conventions concluded between the United States and other Powers since July 4, 1776, p. 899.)

CHAPTER II.

THE BEGINNING OF FORMAL RELATIONS.

When peace had now been made Russia expected that the United States would again seek to open up diplomatic relations with her. In 1785 John Adams wrote from London to Jay that "Russia as well as Portugal are piqued at present with this court (of St. James) and Count Warranzow (the Russian ambassador) has several times lately asked a friend of mine why the United States did not make advances to his mistress."¹ But none were ever made. The young republic's diplomatic relations were causing her trouble enough without seeking for new ones which might become still more entangling.

In the spring of 1798 occurred the rupture between the French Directorate and the United States. Diplomatic relations between the two countries were broken off and great preparations were made for war by the United States.² In Europe a coalition was formed against France by Russia, Austria, England, Turkey, and Naples.³ Advances were made by Russia to the United States with the view of effecting the complete isolation of France. In November, 1799, Count Woronzow, the Russian ambassador at London, approached Rufus King, at that time American minister to Great Britain, on the subject of closer relations between Russia and the United States. He said that as the United States had a considerable trade in the Baltic it appeared somewhat singular that no direct relations had ever existed between the two governments. He declared that he believed

¹ J. Adams to Jay. Nov. 24, 1785. Diplomatic Correspondence of the United States of America, from the signing of the Definitive Treaty of Peace, 10th September, 1783, to the Adoption of the Constitution, March 4, 1789, vol. 4, p. 446.

² Schouler, History of the United States, vol. 1, chap. 4.

³ Fyffe, History of Modern Europe, vol. 1, p. 160.

that the Emperor would be inclined not only to form a commercial treaty with the United States but also to use his influence in helping them to conclude a treaty with Turkey, if they desired to make one. To this King discreetly replied that he could perceive considerable advantage in a commercial treaty with Russia, and that it would undoubtedly be an object of importance to extend and establish the American trade in the Levant. Count Woronzow then proposed that they resume the conversation at an early date and that in the meanwhile they should write to their respective governments, who, if the measure should be found advisable, might authorize a treaty to be negotiated there in London.⁴

The trade of the United States with Russia at that time was exceedingly small and unimportant. If this offer was made in good faith it might be made an opportunity for developing American export trade in Russia.⁵ In informing Secretary Pickering of this proposal, King stated that he did not know whether it had come from the ambassador himself or had been ordered by his government.⁶ President Adams, however, considered that this was an intimation directly from the Russian government, and without waiting for further information, on February 6, 1799, nominated Rufus King a special minister for negotiating with any minister of equal rank and powers a treaty of amity and commerce between the United States and the Emperor of Russia.⁷

Instructions as to this treaty, however, were not sent to King until three months later. He was told to stipulate that the citizens and subjects of the two countries should have

⁴R. King to T. Pickering. Nov. 10, 1798. *Life and Correspondence of Rufus King*, vol. 2, pp. 463-464.

⁵Pitkin, *Statistical View of the Commerce of the United States of America*, p. 230. At that time the exports of the United States to Russia were less than to any other European nation. *Statistical Tables Exhibiting the Commerce of the United States with European Countries from 1790-1890*. House Misc. Doc., 2d Sess., 52d Cong., 1892-1893, vol. 26, p. xvi.

⁶R. King to T. Pickering. Nov. 10, 1798. *Life and correspondence of Rufus King*, vol. 2, pp. 463-464.

⁷*Messages and Papers of the Presidents*, vol. 1, p. 282; *Senate Executive Journal*, vol. 1, p. 310.

perfect freedom of navigation and commerce in all their respective dominions where navigation and commerce were then permitted to any other nation. Special emphasis was to be laid on neutral rights. In case of war each party was to be allowed to trade fully with the enemies of the other, except in articles contraband of war and with places actually besieged or blockaded. As it was likely that Russia would demand (as she had recently done in a treaty with England), that naval stores, her chief exports, should not be considered as contraband of war, King was to agree to this, as the United States wished to have this doctrine widely accepted. He was further instructed that "the provision that free ships make free goods must be left out because it was a principle not universally accepted by maritime nations." The treaty was to run for ten years and ratifications were to be exchanged at London.⁸

As soon as King heard of his appointment he wrote to Count Woronzow that he had received an answer from his government with regard to their conversation, and that while nothing had been definitely decided he had some reason to believe that the proposition would be agreeable to the President. If negotiations should be carried on in London it was quite probable that the President would commit them to him.⁹ To this the Count replied that he would write immediately to his court upon the subject, stating what he had said as proceeding from their personal conversation and hoping a treaty might be concluded and that the two countries might respectively keep ministers at St. Petersburg and Philadelphia.¹⁰

King at once transmitted this reply to the secretary of state and said that he feared that they had been a little pre-

⁸T. Pickering to R. King. May 1, 1799. Instructions, vol. 5; MS., State Department Archives. The treaty was to be modeled on that concluded between Russia and Great Britain, Feb. 10/21, 1797. Annual Register for 1797, pp. 296-303.

⁹R. King to Count Woronzow. March 11, 1799. Life and Correspondence of Rufus King, vol. 2, pp. 552-553.

¹⁰R. King to T. Pickering. March 16, 1799. *Ib.*, pp. 568-570.

mature in naming a commissioner to negotiate with Russia when they had not yet ascertained the sentiments of the Russian cabinet in respect either to the negotiation or the place of conducting it. He significantly added that he had heard from very good authority that England and Russia had a plan on foot to cut off the trade of neutral nations with France, and that it was reported that the United States were to join them for this purpose.¹¹

Pickering, the secretary of state, had early perceived that the advances of Count Woronzow were due to the strained relations existing between the United States and France, and that the President's action in nominating commissioners to treat with France would defeat King's negotiations with Russia.¹² However, he wrote to King that he hoped that his fear in regard to the treaty with Russia would be removed by the appointment of the Russian minister at London to treat with him there. Count Woronzow's note had been broader in its scope than his conversation, and so Pickering added, "It would not be desirable to us to send a minister to Petersburg for that object, nor would the American government, I imagine, have determined on the negotiation if the necessary consequence was to be the placing a resident minister in Russia. I am inclined to think the number of our foreign ministers will rather be diminished than increased."¹³

In the early part of June, 1799, Lord Grenville, the secretary of state for foreign affairs, informed King that the English minister at St. Petersburg had lately reported to him that the United States would have no difficulty in concluding a commercial treaty with Russia and that a despatch had been sent to the Russian envoy in London to inform King of the wishes of the Russian court on that subject. Accordingly, a few days later, Count Woronzow told King

¹¹ Ibid.

¹² T. Pickering to Alexander Hamilton. Feb. 25, 1799. Works of Alexander Hamilton, vol. 6, p. 398.

¹³ T. Pickering to R. King. May 29, 1799. Life and Correspondence of Rufus King, vol. 3, pp. 26-28.

that in consequence of his information that the American government protected the cause of order and religion, that it was on friendly terms with England and the allies of Russia and held in abhorrence the conduct of the French, Russia was ready to enter into more direct intercourse with the United States and to conclude a commercial treaty between the two countries. But he said that the success of the negotiation must, at least for the present, depend upon the situation of affairs between the United States and France. If they were about to begin negotiations with France it would be advisable for them to suspend further proceedings with Russia./ Woronzow further said that as he had no information as to what course the United States would pursue, he had thought it proper to inform King of this much personally and confidentially so that he might, if he chose, communicate what he had so said to his government. On this occasion the Russian envoy said that the negotiation whenever it took place must, according to the unvaried usage of his court, be conducted either at St. Petersburg or Philadelphia.¹⁴

King's despatches from America assured him of the President's determination to make peace with France. In the face of such information he feared that the United States would incur the enmity of both England and Russia.¹⁵ Besides he was empowered to treat only at London. Therefore, as he was convinced that the negotiation had best be relinquished for the present,¹⁶ he took no further steps in the matter and the subject was never resumed between the two ministers.¹⁷

As early as 1794 President Washington had nominated a consul for St. Petersburg.¹⁸ When Jefferson became

¹⁴ R. King to T. Pickering. June 5, 1799. *Life and Correspondence of Rufus King*, vol. 3, pp. 29-30.

¹⁵ R. King to T. Pickering, Dec. 31, 1799. *Ib.*, p. 165.

¹⁶ Same to same. Nov. 4, 1799. *Ib.*, p. 141.

¹⁷ T. Pickering to G. Washington. Aug. 2, 1799. *Pickering Papers*, vol. 11, no. 536. MS., Mass. Historical Society.

¹⁸ *Messages and Papers of the Presidents*, vol. 1, p. 173.

president he appointed, on November 11, 1803, Levett Harris of Pennsylvania to that post.¹⁹ Harris was an ambitious man who owed his political preferment to Jefferson.²⁰ Although but a consul he soon got himself received at court and wrote to Jefferson about "the flattering attention" which he received from the Emperor and his ministers and their "most signal proofs of regard for the United States."²¹ Jefferson, having been informed that the Emperor Alexander desired to correspond with him, took the occasion of the Emperor's interposition in the capture of the frigate *Philadelphia*, which had been stranded on the coast of Tripoli, to write to him, on July 15, 1804, a letter full of expressions of friendship, and thanking him for his good offices in securing the release of the crew of that vessel.²² Harris then became the medium of communication between his government and the Russian court.²³ From his youth up the Emperor Alexander had maintained a lively interest in the Constitution of the United States and had shown a great admiration for Jefferson.²⁴ On August 20, 1805, he wrote Jefferson a letter congratulating him upon his reelection.²⁵ In 1806 England had begun her blockade of the mainland of Europe. The question of neutral trade had become of vital importance to the United States. Jefferson's

¹⁹ Senate Executive Journal, vol. 1, p. 453.

²⁰ L. Harris to T. Jefferson. July 24, 1817. Jefferson Papers, Series 2, vol. 45, no. 80. MS., Library of Congress.

²¹ L. Harris to T. Jefferson. July 26 (Aug. 7), 1804. Jefferson Papers, Series 2, vol. 42, no. 52. MS., Library of Congress.

²² T. Jefferson to Emperor Alexander. June 15, 1804. Jefferson Papers, Series 1, vol. 10, no. 90; T. Jefferson to Wm. Short. Aug. 29, 1808. MSS., Library of Congress.

²³ T. Jefferson to L. Harris. April 18, 1806. Writings of Jefferson, ed. Washington, vol. 5, pp. 5-7; L. Harris to Baron de Budberg. Aug. 4, 1806. Jefferson Papers, Series 2, vol. 42, no. 54. MS., Library of Congress.

²⁴ Rush, *Memoranda of a Residence at the Court of London*, p. 240; T. Jefferson to L. Harris. April 18, 1806. Writings of Jefferson, ed. Washington, vol. 5, p. 6; L. Harris to T. Jefferson. Sept. 16, 1806. Jefferson Papers, Series 2, vol. 42, no. 59. MS., Library of Congress.

²⁵ T. Jefferson to Emperor Alexander. April 19, 1806. Writings of Jefferson, ed. Washington, vol. 5, pp. 7-9.

belief in the Russian Emperor's friendship for the United States was strong. He considered that the interests of the two nations as to neutral trade were identical and that, as long as Alexander lived, Russia would be "the most cordially friendly to us of any power on earth."²⁶ In this belief Jefferson answered the Emperor's letter and requested that at the next pacification he should use his good offices and influence with the European nations to introduce a correct definition of the rights of neutrals on the high seas. "Having taken no part in the past or existing troubles of Europe," wrote the President, "we have no part to act in its pacification. But as principles may then be settled in which we have a deep interest, it is a great happiness for us that they are placed under the protection of an umpire who, looking beyond the narrow bounds of an individual nation, will take under the cover of his equity the rights of the absent and unrepresented."²⁷ This letter was presented by Harris to the Emperor in person, and the Emperor wrote Jefferson thanking him for it and for the books on the American Constitution which the President had also sent.²⁸ When Jefferson's decision to decline a third nomination was known in Russia in 1806, the Emperor and his ministers expressed to the President through Harris their deep regret at this news.²⁹

The need for closer diplomatic relations was more strongly felt when on May 17, 1808, Count Romanzoff, the Russian minister of foreign affairs, wrote to consul Harris that the Russian-American company had frequently informed him that ships from the United States had been carrying on a clandestine trade with the savages in the Russian

²⁶ T. Jefferson to Wm. Duane. July 20, 1807. Writings of Thomas Jefferson, ed. P. L. Ford, vol. 9, pp. 119-121.

²⁷ T. Jefferson to Emperor Alexander. April 19, 1806. *Ib.*, vol. 8, p. 439.

²⁸ L. Harris to T. Jefferson. August 10, 1806. Jefferson Papers, Series 2, vol. 42, no. 55; Emperor Alexander to T. Jefferson. Aug. 10, 1806. *Ib.*, vol. 2, no. 12. MSS., Library of Congress.

²⁹ L. Harris to T. Jefferson. Sept. 16, 1806. Jefferson Papers, Series 2, vol. 42, no. 59. MS., Library of Congress.

possessions on the northwest coast of America, and that they had exchanged with them for otter skins fire-arms and powder by means of which a Russian fort was destroyed and a number of people had lost their lives. The Russian minister requested Harris to call the attention of his government to this and proposed that they stipulate by a convention that, in order to avoid the consequences of such a trade with the savages, a common exchange should be established exclusively at Kodiack and with the agents of the Russian-American company.⁸⁰ Harris promised to bring the matter to the attention of his government.⁸¹

In July, 1807, the Treaty of Tilsit was made. The Emperor Alexander had been won over to an alliance with France. England at once declared war and interdicted all intercourse with Russia.⁸² As a large producer of raw materials the welfare of Russia demanded an alliance with a nation largely devoted to the carrying trade.⁸³ Russia turned to the United States. On June 13, 1808, Count Romanzoff wrote to Levett Harris requesting him to inform his government that the Emperor, in order to strengthen more firmly the ties of friendship between Russia and the United States, had appointed André Daschkoff consul-general at Philadelphia, "conferring on him at the same time the title of his *chargé d'affaires* near the Congress of the United States."⁸⁴

Before the news of this appointment reached America necessity had likewise compelled the United States to make advances. England and France had each been doing its best to destroy the neutral commerce of America. The Embargo Act was proving a disastrous failure. Jefferson had

⁸⁰ Romanzoff to L. Harris. May 17, 1808. American State Papers, Foreign Relations, vol. 5, p. 439.

⁸¹ *Ib.*, p. 453.

⁸² T. Jefferson to Wm. Short. Jan. 31, 1808. Jefferson Papers, Series 2, vol. 77, no. 136. MS., Library of Congress.

⁸³ Gen. Armstrong to Secretary of State. Paris, Nov. 24, 1808. American State Papers, For. Rel., vol. 3, p. 299.

⁸⁴ Count Romanzoff to L. Harris. June 13, 1808. American State Papers, For. Rel., vol. 3, p. 298.

early foreseen that England's interdict against Russian trade would cause great distress in Russia.⁸⁵ At such a time a mission to Russia, the old friend of neutral rights, might bring about some good results. As early as June it was under discussion, and by July Jefferson had determined to send William Short as minister plenipotentiary to St. Petersburg. The mission was intended to be special, not permanent, and as it was not to be made known until after Short's arrival in St. Petersburg, the Senate was not to be informed until the latest possible moment.⁸⁶ As the President did not wish any delay, Short sailed from Philadelphia on the first of October, 1808, carrying with him an autograph letter from Jefferson to the Emperor.⁸⁷

Short was to secure the aid of the Emperor in protecting the maritime rights of the United States against the encroachments of England and France whenever a treaty of peace should be made.⁸⁸ His instructions informed him that "it being impossible to know what the future conduct of the belligerent powers may be toward neutrals, or to foresee what particular policy in relation to this continent may find its way into a general pacification, it cannot be unimportant to have in a party so powerful and influential as Russia a good will and wakeful attention to the just rights and interests of the United States, as these may be involved in the course of events. To secure this advantage being the primary object of your mission, these general instructions will for the present be sufficient." In case the Emperor should wish to enter into explanatory or declaratory stipulations concerning relations between neutrals and belligerents, the views of the President would be sent him later.

⁸⁵ T. Jefferson to Wm. Short. Jan. 31, 1808. Jefferson Papers, Series 2, vol. 77, no. 136. MS., Library of Congress.

⁸⁶ T. Jefferson to J. Madison. July 29, 1808. Writings of Jefferson, ed. Washington, vol. 5, p. 329; T. Jefferson to A. Gallatin. Aug. 30, 1808. *Ib.*, p. 360.

⁸⁷ T. Jefferson to Emperor Alexander. Aug. 29, 1808. Writings of Thomas Jefferson, ed. P. L. Ford, vol. 9, pp. 206-207.

⁸⁸ T. Jefferson to Wm. Short. Aug. 29, 1808. MS., Library of Congress.

He was also to endeavor to secure some favorable commercial regulations for the commerce of the United States in Russia, and to explain the Embargo Act so as to show that its aim would have been frustrated if an exception had been made in favor of Russian commerce.³⁹

Short proceeded at once to France, arriving in Paris on November 15, 1808. As Count Romanzoff, the Russian minister of foreign affairs, was there at that time, General Armstrong, the American minister to France, informed him that the President had determined to send a minister to St. Petersburg whose arrival there might soon be expected. The Count expressed the greatest satisfaction at the information. He asked particularly what rank the gentleman would have. When told, he replied that "a minister of equal rank would be immediately appointed." He added, "Ever since I came into office I have been desirous of producing this effect, for in dissolving our commercial connections with Great Britain it became necessary to seek some other power in whom we might find a substitute, and on looking around, I could see none but the United States who were at all competent for the object."⁴⁰ Thereupon Short communicated his mission to Romanzoff, who expressed his extreme gratification. Short then set to work to cultivate assiduously the acquaintance of the Russian minister. Romanzoff was most flattering and Short unreservedly discussed with him the objects of his mission. Before Short, however, could make his preparations to start for Russia the winter was at its height. As the weather was unusually severe he determined to wait, especially as Romanzoff was still in Paris. From his conversations with the Count he was led to believe that he could make some sort of a treaty

³⁹ J. Madison to Wm. Short. Sept. 8, 1808. Instructions, vol. 7, MS., State Department Archives. Wm. Short had been secretary of legation to Jefferson, when minister to France in 1784. In 1789 he was appointed *chargé d'affaires* in France by Washington. In 1792 he was minister resident to the Netherlands, and in 1794 minister resident to Spain.

⁴⁰ Gen. Armstrong to J. Madison. Nov. 24, 1808. American State Papers, For. Rel., vol. 3, p. 299.

with regard to neutral rights upon his arrival at St. Petersburg. By waiting he hoped to receive the additional instructions on this topic which he had been promised. But none came. Romanzoff departed, Short still lingered on, hoping from day to day to receive further instructions from his government and news as to the Embargo. Thus Short was still waiting in Paris when the news arrived that the Senate had rejected his nomination.⁴¹

Jefferson, desiring to keep the mission to Russia a secret as long as possible, did not send Short's nomination to the Senate until the very close of the session.⁴² It was only on February 24, 1809, that the President, by his last official message, informed the Senate that as the Emperor of Russia had on several occasions indicated sentiments particularly friendly to the United States and had expressed a wish through different channels that diplomatic intercourse should be established between the two countries, and that as his influence might be of great value to the United States should arrangements of any sort affecting them be contemplated in the negotiations for peace, he had therefore thought that it would be advantageous to establish a mission to Russia. For this purpose, he said, he had commissioned, in the month of August last, William Short of Pennsylvania "to proceed as minister plenipotentiary to the court of St. Petersburg and he had accordingly proceeded," and he now nominated him to the Senate for that appointment. To Jefferson's great dismay the Senate rejected Short's nomination.⁴³

As this action on the part of the Senate was considered to have been not on account of the mission but on account of the man,⁴⁴ President Madison, on the second day after his inaug-

⁴¹ Wm. Short to T. Jefferson. Paris, April 10, 1809; same to same. Paris, May 27, 1809. MSS., Library of Congress.

⁴² T. Jefferson to Wm. Short. March 8, 1809. Writings of Thomas Jefferson, ed. P. L. Ford, vol. 9, p. 249-250.

⁴³ Messages and Papers of the Presidents, vol. 1, p. 461; Senate Executive Journal, vol. 2, pp. 112-113.

⁴⁴ T. Pickering to R. King. Feb. 2, 1810. Life and Correspondence of Rufus King, vol. 5, p. 192; J. Q. Adams, Memoirs, vol. 1, p. 544.

uration, sent for John Quincy Adams and offered him the Russian mission. Madison said that as the Emperor desired an interchange of ministers, and as the commercial relations between the two countries were important, he was very desirous of complying with the request, as some valuable advantage might be obtained if the Emperor was in that friendly disposition. The President further stated that there would be no particular immediate subject of negotiation unless it should appear that commercial arrangements of mutual benefit might be made. But if peace negotiations ensued and the principles of maritime rights became objects of the treaty, the interest of the United States might require their participation in order to guard against any possible combination of England and France against the United States, and for this reason the cultivation of the Emperor's friendship would be very important. To Adams's inquiry as to how long the mission might continue, Madison replied that it was indefinite, that it might last three or four years, but that all would depend upon events. Adams immediately accepted and the President at once sent in his nomination to the Senate.⁴⁵ As there was at that time a faction in the President's party, some of the Republicans by joining with the Federalists defeated Adams's nomination. Thereupon the Senate adjourned *sine die*.⁴⁶

The news of Short's rejection by the Senate had not yet reached St. Petersburg when, on May 10 (O. S.), 1809, the Emperor Alexander, in return for the appointment of an American minister to his court, appointed Count Pahlen minister to the United States.⁴⁷

In June, 1809, Daschkoff, having arrived in the United States, was received by the President, since, although titu-

⁴⁵ J. Q. Adams, *Memoirs*, vol. 1, pp. 544-545.

⁴⁶ Senate Executive Journal, vol. 2, pp. 118-120; H. Adams, *History of the United States*, vol. 5, pp. 11-12.

⁴⁷ Emperor Alexander's letter of credence to Count Pahlen. MS., State Department Archives.

larly nothing more than a *chargé*, he had brought a letter of credence from the Emperor himself.⁴⁸

A few days later, on June 26, 1809, President Madison, having restored discipline to his party, again sent John Quincy Adams's name to the Senate as minister to Russia, saying that since the previous nomination evidence had been received of the Russian Emperor's desire to establish diplomatic intercourse between the two countries and of the favorable disposition of his council to an extension of a commerce mutually advantageous to both countries. As evidence of this friendly disposition the President confidentially communicated Armstrong's conversation with Romanzoff at the time of Short's arrival in Paris and Harris's despatch announcing the appointment of Daschkoff. On the next day the Senate confirmed Adams's nomination.⁴⁹ With this action of the Senate formal diplomatic relations between the United States and Russia were begun. The troubled condition of European affairs had forced both countries to turn simultaneously to each other for support.

⁴⁸ J. Madison to T. Jefferson. July 23, 1809. Letters and other Writings of James Madison, vol. 2, p. 449.

⁴⁹ J. Madison to the Senate. June 26, 1809. American State Papers, For. Rel., vol. 3, p. 298; Messages and Papers of the Presidents, vol. 1, p. 471; Senate Executive Journal, vol. 2, pp. 126-128.

CHAPTER III.

ADAMS'S MISSION.

John Quincy Adams was well fitted for the mission to Russia. As a youth he had gone there with Dana, and in diplomacy was no amateur, having been one of the secretaries to the American plenipotentiaries who negotiated the treaty of Paris, and he was afterwards minister first to Holland, then to Prussia and commissioner to Sweden.¹

Adams arrived at Cronstadt, the port of St. Petersburg, on October 21, 1809.² His instructions were the same as those given to Short.³ The chief object of his mission was to secure Russia's protection of American commerce in the event of a general pacification in Europe. But there was one point upon which he had received no instruction, and that was in regard to the presents to the Russian ministers, which had up to that time been considered indispensable. And so before he left Boston Adams wrote to the secretary of state, asking if he was to make them, for, he said, "a refusal on the part of the Congress under the Confederation to comply with this custom was the occasion of Mr. Dana's returning home from St. Petersburg without being received as a public minister."⁴ Secretary Smith informed Adams that if he should find that the presents were customary and expected, he was authorized to make them.⁵

¹ Foster, *Century of American Diplomacy*, p. 250.

² J. Q. Adams, *Memoirs*, vol. 2, p. 45; J. Q. Adams to R. Smith. Oct. 21, 1809. Despatches, Russia, vol. 1, no. 3. MS., State Department Archives.

³ J. Madison to T. Jefferson. July 4, 1809. Letters and other Writings of James Madison, vol. 2, pp. 445-446; R. Smith to J. Q. Adams. July 20, 1809. Instructions, vol. 7, MS., State Department Archives.

⁴ J. Q. Adams to R. Smith. July 27, 1809. Despatches, Russia, vol. 1, MS., State Department Archives.

⁵ R. Smith to J. Q. Adams. Oct. 23, 1809. Instructions, vol. 7. MS., State Department Archives.

At his first interview with the minister of foreign affairs, Count Romanzoff, officially known as the Chancellor of the Empire, Adams, after the usual formal speeches, at once proceeded in his efforts to enlist Russia's protection of American commerce without waiting for a general pacification. At Christiansand, in Norway, he had seen a large number of American vessels which had been captured by Danish privateers.⁶ Calling the attention of Romanzoff to this fact, he now broached the subject of more favorable neutral rights. Russia was then in close alliance with Napoleon, who was using every effort to secure the strict application of his Continental system. And so the Chancellor replied that while such a state of affairs was much to be desired, he was afraid that it was yet far distant.⁷

On November 5, 1809, at a private audience the Russian Emperor received an American minister for the first time. No third person was present at this interview. The Emperor was most cordial and strongly expressed his disapproval of England's maritime policy and his own determination to favor the commerce between the United States and Russia. He said that between Russia and the United States there could be no interference of interests and no causes for discussion, but that by means of commerce the two nations might be of great use to each other, and it was his desire to give the greatest extension and facility to this means of mutual benefit.⁸ "With regard to the political relations of Europe, and those unhappy disturbances which agitated the different states, the system of the United States to keep themselves altogether disconnected with them was wise and just, and they might rely upon him that he would do nothing to withdraw them from it."⁹

⁶ J. Q. Adams, *Memoirs*, vol. 2, p. 21.

⁷ J. Q. Adams to R. Smith. Oct. 14/26, 1809. Despatches, Russia, vol. 1, no. 4. MS., State Department Archives.

⁸ J. Q. Adams, *Memoirs*, vol. 2, p. 53.

⁹ J. Q. Adams to R. Smith. Nov. 6, 1809. Despatches, Russia, vol. 1, no. 5. MS., State Department Archives.

Since Russia was at war with England a good understanding with the United States was necessary for her commercial welfare, and Romanzoff did not hesitate to say so as openly as he had done a year previously in Paris. The Chancellor told Adams that there were strong prejudices in Russia in favor of England, founded upon old habits and long established commercial intercourse, but that the English exclusive maritime pretensions and views of usurpation upon the rights of other nations made it essential to Russia that some great commercial state should be supported as her rival. The United States were such a state and the highest interest of Russia was to support and favor them, since by their relative situation the two powers could never be in any manner dangerous to each other. Romanzoff said further that he had been for many years inculcating this doctrine at his court, and while the Emperor had always shown himself favorably inclined to it, he had had the satisfaction of perceiving him become daily more strongly attached to this system. This frank avowal by the Chancellor of his policy appeared to Adams so surprising that he did not believe in its sincerity, but considered that it had been made with the object of ascertaining if he had power to conclude a treaty with Russia and of leading directly to propositions for that purpose from him.¹⁰

But the friendly disposition of the Russian government towards the United States was not shown in words only. Denmark, at the demand of Napoleon, had ordered the proscription of the cargoes of neutral ships. American goods had been seized in the ports of Holstein. Adams, on December 26, 1809, applied in behalf of their owners to Count Romanzoff to have the Emperor use his influence to secure the immediate release and restitution of the property of American citizens sequestered by the order of the King of Denmark. The Count gave him to understand that Russia could not interfere. He said that the Danes had been forced

¹⁰ J. Q. Adams, *Memoirs*, vol. 2, pp. 65-66.

to this action by Napoleon and he was afraid, therefore, as it was a measure coming directly from the French Emperor, no influence in the world could stop it, but that the United States might always rely upon the Russian Emperor's inclination to use his good offices in their favor. Three days later Romanzoff informed Adams that he had reported to the Emperor Adams's request and his own answer. He said that the Emperor had judged differently on the subject and had given him express orders to request the Danish minister at his court to urge upon his government the restoration of the American property as quickly as possible, as it was a matter "in which the emperor of Russia takes a particular interest and in which a compliance with his desire will give him peculiar satisfaction."¹¹ On February 27, 1810, Romanzoff informed Adams that Denmark had granted the Emperor's request.¹²

On January 4, 1810, Daschkoff, the Russian *chargé* in the United States, renewed the complaint which Romanzoff had made to Harris about the trade carried on by citizens of the United States with the natives in the Russian possessions on the northwest coast of America. In a note to Secretary Smith he said that as this trade in arms and ammunitions of war by Americans endangered the safety of many citizens of the United States as well as Russian subjects, it was the opinion of the Russian government and also of some American merchants that it would be very advantageous if the government of the United States would prohibit by law its citizens from this trade, which was prejudicial to both nations, and would compel them to deal exclusively with the factory or agents of the Russian company. The utility of

¹¹ J. Q. Adams, *Memoirs*, vol. 2, pp. 84-86; J. Q. Adams to R. Smith. Jan. 3, 1810. *Despatches, Russia*, vol. 1, no. 8; same to same. Jan. 7, 1810. *Ib.*, no. 9. MSS., State Department Archives.

¹² J. Q. Adams, *Memoirs*, vol. 2, p. 100; J. Q. Adams to R. Smith. March 24, 1810. *Despatches, Russia*, vol. 1, no. 12. On Oct. 9/21, 1810, Adams sent a note to Romanzoff expressing the acknowledgment of the President for the Emperor's good offices in this matter. J. Q. Adams to Count Romanzoff. Oct. 9/21, 1810. *Despatches, Russia*, vol. 1, inclosure. MSS., State Department Archives.

such an arrangement, he declared, would be real and reciprocal, as it would increase the trade and strengthen the friendly relations between the two countries. He announced that should the President be also of the opinion that a convention was the proper means of arranging the commerce between the United States and the Russian establishment on the northwest coast of America, so as to prevent all future complaint and to strengthen the friendship between the two nations, he was clothed with the necessary powers for entering upon such a negotiation.¹⁸

Daschkoff was then asked if he was authorized to fix a latitude to the south of the Russian establishment which should serve as a line of demarcation to the American ships which traded upon those coasts. Upon his replying that he had no such authority he was informed that there would be great difficulty in passing a precise law by which the traffic of contraband should be prohibited beyond a certain degree. Thereupon Daschkoff proposed that they should substitute as a boundary a latitude named some degrees below the last Russian establishment situated to the southeast, until there should be exact accounts of its geographical situation. The American government did not consider that this would obviate the difficulty. It refused to entertain the Russian view that the United States were bound to restrain their citizens from trading in warlike articles with the Indians connected with the Russian establishments. It took the position that if the Indians were under the Russian jurisdiction the United States were bound only to leave their citizens to the penalties operating within the territorial limits. But if the Indians were to be considered as independent tribes, inhabiting an independent territory, Russia had no right to prohibit other nations from trading with them, unless it should be in contraband of war during a state of war; in this case she might enforce the prohibitions on the high seas. If the Indians should fall under the character of rebels or

¹⁸ A. Daschkoff to R. Smith. Jan. 4, 1810. American State Papers, For. Rel., vol. 5, pp. 438-439.

insurgents against Russian authority the same rule would be applicable. In this view of the case the government of the United States decided that it was under no legal obligation to comply with the demands of Russia and that it could not be brought under such an obligation except by a compact; and it could not make a compact without becoming involved in a controversy with Spain, whose territorial claims on that coast extended from the south up to those of Russia. The President determined not to enter into any further negotiation until Daschkoff should receive more extended powers or the Russian government should choose to terminate the affair with the American minister at St. Petersburg. Therefore the secretary of state informed Daschkoff that as he had no authority to fix a boundary line, no definitive adjustment could possibly be made.¹⁴

In informing Adams of the stand taken by the United States in this affair Secretary Smith said that as Russia had the means of enforcing her rights against those who intruded on the coast possessed by her, or who carried implements of war to be used in a hostile manner against her, it could not be essential that any foreign power should coöperate with her for that purpose. He added: "In explaining the sentiments of the United States on this occasion, it will be advisable for you to bring into view the hopes of the United States that it will be found consistent with the liberal policy of the Emperor to favor a commerce of the Americans in innocent articles both with the Russians and Indians in that quarter, and even their intercession in the trade between the Russian establishments and China. As it does not appear how far the Russians stretch their claim southwardly along the coast, it is material that some latitude should be fixed as the limit and it is desirable, as the coast south of it will enter into the plan of Indian trade likely to be em-

¹⁴ A. Daschkoff to R. Smith. April 24, 1810. *American State Papers, For. Rel.*, vol. 5, p. 441; R. Smith to A. Daschkoff. May 5, 1810. *Ib.*; R. Smith to J. Q. Adams. May 5, 1810. *Ib.*, p. 440.

braced by our citizens, that the limit should be as little advanced southwardly as may be."¹⁵

On August 28, 1810, this question of trade with the Russian settlement on the northwest coast of America was taken up in St. Petersburg. Romanzoff told Adams that the Russian government had a growing settlement there from which a very profitable trade might be carried on with China. Unfortunately through a misunderstanding the Russians had been prohibited from the Chinese ports. Therefore he wished that the trade between the Russian settlement in America and China might be carried on by the Americans. But as the settlement itself was in the neighborhood of Indians, who were sometimes troublesome and dangerous neighbors to it, he proposed that an arrangement be made with the United States whereby the Americans might have the trade of the settlement, subject to an agreement not to furnish warlike weapons and materials to the neighboring Indians. Adams replied that when the subject had been discussed in the United States Daschkoff had not been specifically instructed as to the limits within which it was wished that this restriction should be extended, and he now asked the Count whether he could state them. Romanzoff answered that it would require some consideration, but that their maps included the whole of Nootka Sound and down to the Columbia River as a part of the Russian possessions.¹⁶

At the time of the Nootka Sound Convention in 1790 Russia had confined her claims on the northwest coast of America to the north of the sixtieth degree north latitude, while Spain and England had by a convention fixed their respective rights in all parts of that coast from the last establishment of Spain to the south of Cape Mendocino to the sixtieth degree, inclusive. This being the case, Adams could not imagine that it was the Count's serious intention to claim as far as the Columbia River, but he found on examination

¹⁵ R. Smith to J. Q. Adams. May 5, 1810. *Ib.*, p. 440.

¹⁶ The mouth of the Columbia River is in latitude 46 degrees, 15 minutes, north.

that, at the time of the correspondence between Romanzoff and Harris on this subject, the Russian claim was even then asserted down to the mouth of the Columbia.¹⁷

This extension of Russia's claims Adams determined to oppose. At a later interview, on October 9, 1810, he told Romanzoff that, as the people of the United States were so extensively engaged in commercial navigation to all parts of the world, the traffic with the Indians could not be prevented unless by special prohibitions of law—prohibitions which it would be extremely difficult to carry out fully. Besides, if such an arrangement should be proposed to Congress it would lack the basis of reciprocity. And even if a convention were concluded to prohibit this traffic the Indians would probably still get their supplies from the English. However, Adams said, he had been instructed to inquire what would be the boundary line within which the Russian government wished to extend the prohibition. Seeing that Adams refused to take seriously his announcement that the Columbia River was the southern limit of Russia's claims, Romanzoff replied that this was a matter concerning which they had no great solicitude; that their first idea had been that this trade with the Indians, especially in fire-arms, might be as detrimental to the United States themselves as to the Russian settlement; such being the case the United States might find it expedient to issue the prohibition, provided it was conformable to their constitution. He did not believe or think that the English furnished the Indians with fire-arms. With regard to a mutual stipulation, the Count said, he had to confess candidly there was no basis for it. To engage that the Russians should not thus traffic would be nugatory, as no Russian vessels traded there and there was no privilege which could be granted for trade with the Russian settlement which did not then exist *de facto*. What might be done in the future, if the settlement should

¹⁷ J. Q. Adams, *Memoirs*, vol. 2, pp. 151-153; J. Q. Adams to R. Smith. Sept. 5, 1810; same to same. Sept. 30, 1810. *American State Papers*, For. Rel., vol. 5, pp. 442, 450.

become an object of importance, he could not say, but now the trade of all nations there was perfectly free. "As to fixing a boundary, it would be most advisable to defer that to some future time, for the sake of avoiding all possible collision and even every pretext for jealousy or uneasiness." The Chancellor then closed the interview by informing Adams that the attachment of Russia for the United States was as strong and fixed as ever and more obstinate than he was aware.¹⁸

In thus maintaining a *status quo* which was so clearly to the advantage of the Americans Adams won a diplomatic victory, while events were soon to prove still more clearly the truth of Romanzoff's assertion.

By the Treaty of Tilsit Napoleon had persuaded the Emperor of Russia to close his ports to the English. In order to get rid of her raw materials and to obtain the necessary foreign products in return, Russia then turned to the United States. But American vessels also fell under Napoleon's ban, since they were neutrals carrying cargoes more or less to the advantage of England. Napoleon, therefore, determined to stop the admission of American vessels into Russian ports, for he saw clearly that as long as any port was exempt from his measures his Continental system would not affect England.¹⁹ But the American trade was absolutely necessary to Russia; she would become bankrupt if denied exports and restricted in her imports to French luxuries, like silks and champagne, to be paid for in specie. The times were then exceedingly hard for Russia. Her war with Turkey compelled her to maintain a large army with a depreciated currency.²⁰ The Czar determined to persist in his policy of

¹⁸ J. Q. Adams, *Memoirs*, vol. 2, pp. 178-179; J. Q. Adams to R. Smith. Oct. 12, 1810. *Despatches, Russia*, vol. 1, no. 27. MS., State Department Archives; *American State Papers, For. Rel.*, vol. 5, p. 443.

¹⁹ J. Q. Adams to R. Smith. Dec. 1, 1810. *Despatches, Russia*, vol. 1, no. 33, MS., State Department Archives.

²⁰ H. Adams, *History of the United States*, vol. 5, p. 413; Lavissee et Rambaud, *Histoire Générale*, t. 9, p. 763.

favoring the commerce of the United States, which was increasing enormously.²¹ Indirectly Adams received intimations from Romanzoff of his desire to strengthen the relations between the two countries by a treaty of commerce. Adams reported this to the secretary of state, saying, "unless the President has objections of which I am not aware, I would earnestly recommend that a full power and instructions for this purpose be sent me; the moment is eminently favorable and such an occasion once lost may not in many years again recur."²²

In order that there might be no cause for war, Alexander pretended to enforce against American vessels Napoleon's decrees. Large numbers of them were prevented from entering Russian ports or refused permission to unload their cargoes. Adams was completely deceived. Time and again throughout the summer, fall, and early winter of 1810 he appealed to the Russian government in behalf of these vessels. There was a delay, an examination or some other excuse was alleged, but finally Adams's request was always granted.²³ But if Adams was deceived Napoleon was not. He repeatedly urged Alexander to close his ports to American shipping.²⁴ Finally, on October 23, 1810, he called upon Alexander to seize all vessels with colonial articles in his ports, confiscate the goods and prohibit future importation.²⁵ This was directed against American vessels,

²¹ In 1806 the total values of the exports from the United States to Russia were \$12,407, while in 1810 they were \$3,975,698, and in 1811, \$6,137,657. The domestic merchandise exported to Russia from the United States in 1806 was worth \$3,580, in 1810, \$1,048,762, and in 1812, \$1,630,499. The exports were only a small portion of the commerce between the United States and Russia. *Statistical Tables Exhibiting the Commerce of the United States with European Countries from 1790-1890*. House Misc. Doc., 2d Sess., 52d Cong., 1892-1893, vol. 26, p. xvi; Pitkin, *Statistical View of the Commerce of the United States of America*, p. 230.

²² J. Q. Adams to R. Smith. Sept. 5, 1810. Despatches, Russia, vol. 1, no. 23. MS., State Department Archives.

²³ J. Q. Adams's *Memoirs*, vol. 2, pp. 143-144, 151-156, 168-169, 191-192, 194-202, 233-236, 240-241, 246.

²⁴ Thiers, *Consulate and Empire*, vol. 12, pp. 25, 30-32, 182.

²⁵ Fournier, *Napoleon the First*, pp. 516-520.



nearly all of which came to Russia laden with colonial products.²⁶ On December 1, 1810, the Czar informed the French ambassador at his court of his refusal to obey Napoleon's orders, and, on December 30, issued a ukase which opened his ports to all colonial merchandise transported in bottoms not English.²⁷

That Alexander should take such a step was most unexpected to Adams. It seemed incredible to him that at the time when the United States were patiently enduring the insults of both England and France the Emperor of Russia should persist in his policy of favoring American commerce, especially when it meant a war with Napoleon. In transmitting to the secretary of state the news of Alexander's reply to Napoleon, Adams wrote, "The determination of the Emperor . . . is said to be fixed and unalterable, and I hope will prove so at the test to which I think it will be brought, but if a message comes, like that to Sweden, which is not impossible, the necessity of commerce and the real regard for the United States, which is undissembled and unimpaired, may yield to the first principles of Russian policy which is at all events to keep on good terms with France."²⁸

At the first of June, 1811, Adams, having received the powers for which he had written, confidentially informed Count Romanzoff that he was now authorized to negotiate a commercial treaty, if it should be agreeable to the Emperor. This communication was very favorably received by the Chancellor. It was the interest of Russia, he said, to encourage, strengthen, and multiply commercial nations which might be the rivals of England, so as to form a balance to her overbearing power. Russia could never be a great naval power since nature had in a great measure denied her the

²⁶ J. Q. Adams, *Memoirs*, vol. 2, pp. 195-196.

²⁷ C. de Cardonne, *Le Commerce Extérieur de la Russie*. *Revue Contemporaine*, 1862, vol. 2, p. 765.

²⁸ J. Q. Adams to R. Smith. Dec. 5/17, 1810. *Despatches, Russia*, vol. 1, no. 34. MS., State Department Archives.

means. She ought then to support and favor those who had them. The propriety of extending this spirit to the United States had become more obvious and strong by the decay and disappearance of the old commercial states. He said that he foresaw only one difficulty in the way of Adams's proposal, and that was that in the violent and convulsed state of commerce and of the world at that time he hardly conceived it possible to agree upon anything that had common sense in it, if he might use that expression. But, continued the Count, at any rate, that need not prevent them from discussing the subjects which concerned the commerce of their countries and coming to an agreement if they could. He then promised to see Adams in a few days about the matter, but he never did. The war between Russia and France was inevitable. Consequently a change of administration was at hand, for Romanzoff was the leader of the French party at the Russian court. Russia would again become the ally of England and she could not grant to the United States any commercial privileges which she would be unwilling to extend to England, her great rival in time of peace.²⁹

As Adams had been led by Romanzoff's intimations to make the proposal for a commercial treaty he was somewhat piqued that the Count did not resume the subject with him. He let two months pass, and then said to Romanzoff in the course of conversation that the reason why he had not further mentioned to him the subject of the treaty of commerce was owing to the uncertainty both in the state of public affairs and his own situation in St. Petersburg, as he did not know what the ultimate disposition of his government with regard to his mission had been or would be. The Count replied that from the uncertainty in the state of everything it seemed really impossible to enter upon any discussion relative to commerce, for they did not know from day

²⁹ J. Q. Adams to R. Smith. April 29, 1811. Despatches, Russia, vol. 2, no. 47. MS., State Department Archives; same to same. June 2, 1811. *Ib.*, no. 52; J. Q. Adams, *Memoirs*, vol. 2, p. 271.

to day whether there would be any commerce. And with this the subject was dropped.⁸⁰

Although Romanzoff's conversations could leave no doubt that self-interest was the primary motive for Russia's protection of neutral commerce and her interest in the United States, yet Adams was sincerely persuaded that a personal sentiment of the Emperor for the United States did also largely influence this policy. He therefore wrote to the secretary of state, suggesting that if the President should put in his message some general expressions about the regard which Russia had shown for the rights of the United States, and also some complimentary remarks about the Emperor personally, they might have a favorable effect upon him to continue his friendly policy.⁸¹

The President did not, however, follow this advice as fully as Adams wished. In his message of November 5, 1811, President Madison merely said: "Our other foreign relations remain without unfavorable changes. With Russia they are on the best footing of friendship."⁸²

It was believed at the Russian court that after Adams's return to the United States his government would be represented there by only a *chargé*. Under this impression a commission was sent to Count Pahlen giving him discretionary powers to remain in the United States or to go to Brazil without positively terminating his mission in the United States.⁸³ Count Pahlen elected to go to Brazil. + Russia then determined to continue to be represented in the United States by a minister. On November 9, 1811, Pahlen wrote to the secretary of state asking when he might present his letter of recall to the President, as he had been appointed

⁸⁰ J. Q. Adams, *Memoirs*, vol. 2, pp. 289-290.

⁸¹ J. Q. Adams to J. Monroe. Aug. 2, 1811. Despatches, Russia, vol. 2, no. 61. MS., State Department Archives.

⁸² *Messages and Papers of the Presidents*, vol. 1, p. 491.

⁸³ J. Q. Adams to J. Monroe. June 15, 1811. Despatches, Russia, vol. 2, no. 51. MS., State Department Archives. Count Pahlen had arrived in the United States in June, 1810. Count Pahlen to R. Smith. June 18/30, 1810. Russia, notes. MS., State Department Archives.

minister to the court of the Prince Regent of Brazil, and informing him that Daschkoff had been appointed his successor.³⁴ On November 14 Daschkoff informed Secretary Monroe of his appointment and was immediately accredited.³⁵

³⁴ Count Pahlen to J. Monroe. Nov. 9, 1811. Russia, Notes. MS., State Department Archives.

³⁵ A. Daschkoff to J. Monroe. Nov. 13, 1811. Russian Legation, vol. 1; J. Monroe to A. Daschkoff. Nov. 14, 1811. Notes to Legations, vol. 2. MSS., State Department Archives.

CHAPTER IV.

THE RUSSIAN OFFER OF MEDIATION.

It was clear in the spring of 1811 that war was imminent between France and Russia. It appeared too as if war might break out between the United States and Great Britain. In February, 1811, Pinkney was withdrawn from London, and in May of that year occurred the duel between the "President" and the "Little Belt." Russia wished no war between England and America. It was greatly to her interest at that time that peace should be preserved between those two countries. Russian commerce consisted almost wholly of exports, and should a war arise between the two great carrying nations of the world Russia would either have to sacrifice all her export trade or permit it to be carried by English vessels. The first would cause an internal financial crisis. The second course could not be taken without an avowed and formal treaty of peace with England which would precipitate the war with France, which, if it could not be avoided, Russia was desirous of deferring as long as possible.¹ Besides, in case Great Britain and the United States should go to war, Russia feared lest the United States should join her enemy Napoleon.

On June 22, 1812, Napoleon declared war against Russia, on the twenty-fourth he crossed the Niemen, and by September 14 he had arrived in Moscow. With the hope of more successfully resisting Napoleon Russia made peace with England on July 6, 1812. On June 18, 1812, however, the Congress of the United States had declared war against Great Britain. This was a blow to Russia. Whatever benefits she had hoped to obtain for her commerce by making

¹ J. Q. Adams to J. Monroe. June 2, 1811. Despatches, Russia, vol. 2, no 52; same to same. Oct. 16, 1811. Despatches, Russia, vol. 3, no. 72. MSS., State Department Archives.

peace with England were defeated by the new war between England and the United States. This new war would also cause a diversion of the English forces away from the Peninsula to Canada and the consequent increase of the French troops brought against Russia. The Russian cabinet was likewise confronted by the possibility that Napoleon might induce the United States to join him against their common enemy, Great Britain. Such an alliance would not only greatly strengthen the resources and the power of the French Emperor but it would add another to the list of the enemies of Russia. It was to Russia's interest to prevent such an alliance.

There was no reason, however, for Russia to be uneasy on this last point, as the United States did not intend to enter into an alliance with Napoleon. With regard to Russia Secretary Monroe wrote, on July 1, 1812, to John Quincy Adams that should Russia become involved in the European war there was no reason why the war between the United States and Great Britain should affect in the slightest degree the friendly relations between the United States and Russia, as it was the sincere desire of the American government to preserve to their utmost extent those relations with that power.²

Before Adams had received this despatch Count Romanzoff, at the Emperor's command, sent for Adams and on September 21, 1812, told him that the Emperor deeply regretted that war had broken out between the United States and Great Britain. For, having made peace with Great Britain, he was much disappointed to find that the whole benefit which he expected his subjects would derive commercially from it would be defeated and lost by the new war between England and the United States. But as the Emperor had perceived that both sides had entered reluctantly into this war, he thought that the differences be-

² J. Monroe to J. Q. Adams. July 1, 1812. American State Papers, For. Rel., vol. 3, p. 625, and Instructions, vol. 7. MS., State Department Archives.

tween the parties might be amicably settled more easily and speedily by *indirect* rather than by *direct* negotiation. Therefore the Emperor had directed him, the Count said, to see Adams and to inquire if he was aware of any difficulty or obstacle on the part of the government of the United States if the Emperor should offer his mediation for the purpose of effecting a pacification. Adams replied that he did not know what his government's views on the war were, as he had not yet received any official notification of it, but that he did know that the war would affect unfavorably the interests of Russia and would be highly injurious to both the United States and England. And as for the proposal of the Emperor's mediation, Adams said, he was very sure that it would be received and considered as a new expression of his regard and friendship for the United States, and he was not aware of any obstacle which would cause it to be declined. Adams observed, however, that the British government would have to be consulted. The Count answered that he had already mentioned it to the British ambassador, Lord Cathcart, who had despatched this offer the day before by a messenger to England. The Count also said that he would write to Daschkoff and instruct him to make the proposition to the government of the United States.⁸

The war between the United States and England was an object of great concern to Russia. At another interview Romanzoff questioned Adams as to the authenticity of a rumor that there was an armistice in Canada and that the President had appointed commissioners for a new negotiation with Great Britain. Adams replied that he did not put any faith in such a report, as he had just received a letter from Russell, the American *chargé* in London, announcing that the British government had rejected a proposition which he had been authorized to make for a suspension of hostilities, and that he had been given his passports. The

⁸ J. Q. Adams, *Memoirs*, vol. 2, pp. 401-404; J. Q. Adams to J. Monroe. Sept. 30, 1812. *American State Papers, For. Rel.*, vol. 3, p. 625.

count then said that this incident would not discourage his government from making the offer of its mediation which he had formerly suggested, but on the contrary confirmed them in the belief and hope that a mediation would be successful.⁴

Adams received on December 4, 1812, Monroe's despatch of July 1, and in order to counteract the unfavorable impressions which the English interests were endeavoring to arouse against the United States at the Russian court, he communicated to Count Romanzoff a few days later that portion of it which related to Russia and the position which the United States took towards France. He was not authorized, he said, to make any official communication of the declaration of war, but that as the United States had been compelled to vindicate their violated rights against Great Britain by war, they were desirous that it should be confined exclusively to them and their enemy and that no other power should be involved in it. They also wished particularly to maintain their commercial and friendly relations with Russia. And while the war between France and Russia could not have been known to have begun at the time the secretary's despatch was written, yet it was not considered very improbable, and it was hoped that it would not in the slightest degree affect the friendly relations between Russia and the United States. With regard to France, Adams said, the principal matters of dispute which had long existed between the United States and France still remained unsettled and there was no prospect that there would be an immediate satisfactory settlement of them, but that whenever there should be it was not the intention of the government of the United States to enter into any more intimate connections with France.

At this declaration, for which Russia had been working, the Count expressed great satisfaction and said that it would prove equally satisfactory to the Emperor. He declared

⁴J. Q. Adams to J. Monroe. Oct. 17, 1812. *American State Papers*, For. Rel., vol. 3, pp. 625-626.

that it was the Emperor's fixed determination to maintain friendly and commercial relations with the United States in their fullest extent so far as depended upon him. And as the Emperor would be particularly gratified that it was not the intention of the American government to form any closer connection with France, he wished to know precisely if what Adams had stated to him came directly from his government. To this Adams replied in the affirmative. As it was believed in England that there was an understanding between France and the United States, the Count then asked if Adams had any objection to his communicating to the British government this part of his information. Adams said he had no objection, for as the British government had frequently intimated that the American government was partial to France and was even actuated by French influence, he hoped that the knowledge of his statement, with a consideration of the time and occasion upon which it was made, would tend toward removing the prejudices of the British cabinet and producing a disposition more favorable to conciliation.⁵

By communicating thus the policy of the United States towards France Adams hoped to increase the prospects of success of the mediation. He acted entirely upon his own responsibility and, in allowing Russia to inform Great Britain of the American policy, he possibly committed a serious diplomatic blunder, for Great Britain might have been more ready to make terms with the United States if she thought that in so doing she would be separating them from Napoleon.

Three days afterward Romanzoff showed Adams the draft of a letter for Count Lieven, the Russian ambassador at London. This despatch contained merely that portion of Adams's conversation with him on the policy of the United States towards France, and directed Lieven to make it

⁵ J. Q. Adams to J. Monroe. Dec. 11, 1812. *American State Papers, For. Rel.*, vol. 3, pp. 626-627; J. Q. Adams, *Memoirs*, vol. 2, pp. 427-428.

known to Lord Castlereagh with a view of promoting a pacification. After Adams had read it Romanzoff asked him to point out any inaccuracies, in order that it might conform exactly with what he had said. Adams pointed out a few minor mistakes, which the Count immediately struck out. At this interview Adams asked the Chancellor whether he had received an answer from England to the proposal of the Emperor's mediation. The Count replied that, without accepting or rejecting it, the British government had intimated the belief that it would not be acceptable in America, that they thought the time for negotiating was not yet come, but nevertheless it appeared that they had sent out Admiral Sir John Borlase Warren with powers to negotiate.⁶

In January, 1813, Daschkoff, the Russian minister to the United States, suggested to President Madison that the Emperor of Russia would take pleasure in mediating between Great Britain and the United States. This suggestion was not made in obedience to instructions, and Daschkoff said that the President received it with indifference.⁷ On February 24, 1813, arrived Adams's despatches containing the news of the Russian proposal, and at the same time Daschkoff received his instructions to make the offer of mediation to the American government. On the following day he verbally communicated the Emperor's offer to Secretary Monroe, who received it *ad referendum*. Not having received any reply, Daschkoff became alarmed at the President's reference in his inaugural address to a vigorous prosecution of the war, and wrote to his government that he feared the mediation would meet with difficulties from the ties which bound the United States to France. But the administration did not wish to be hindered by Congress.

⁶ J. Q. Adams, *Memoirs*, vol. 2, pp. 430-433; J. Q. Adams to J. Monroe. Dec. 11, 1812. *American State Papers*, For. Rel., vol. 3, pp. 626-627.

⁷ R. King to C. Gore. Aug. 29, 1813. *Life and Correspondence of Rufus King*, vol. 5, pp. 342-344; J. Q. Adams to J. Monroe. Oct. 17, 1812, *American State Papers*, For. Rel., vol. 3, pp. 625-626.

Monroe waited until it had adjourned and then he announced verbally to the Russian minister that the mediation would be accepted.⁸

Thereupon on March 8, 1813, Daschkoff wrote to the secretary of state that he "had just received" orders to offer to the President of the United States the mediation of the Emperor of Russia in the war between England and the United States. He said that the Emperor foresaw with regret that shackles were about to be placed upon the commercial prosperity of nations. The love of humanity and the interest of his subjects, whose commerce had already sufficiently suffered, commanded him to do everything in his power to remove the evil which this war was preparing even for those nations who did not take part in it. A direct discussion between the two belligerent parties would tend to excite their prejudices and asperity. To obviate this hindrance to a speedy pacification the Emperor offered his mediation.⁹

At the time that this offer was received in the United States the war with England had turned out to be a disastrous failure, except for some few victories on the sea. Hull had surrendered all Michigan and Van Rensselaer, unable to control his militia, had sacrificed an army at Queenstown. At the same time there arrived in America the news of Napoleon's great disaster and his hurried flight from Russia. News also came of the British official announcement, dated December 26, 1812, of the blockade of the Chesapeake and the Delaware. With the overthrow of Napoleon's prestige and the close alliance between Great Britain and Russia the last chance of forcing concessions from England vanished. A long war with no prospect of success lay before the United States.¹⁰ In such a condition of affairs the President eagerly seized the offer of Russian mediation.

⁸ *Life and Correspondence of Rufus King*, vol. 5, pp. 318-319, 344.

⁹ A. Daschkoff to J. Monroe. Feb. 24 (Mar. 8), 1813. *American State Papers, For. Rel.*, vol. 3, p. 624.

¹⁰ H. Adams, *History of the United States*, vol. 7, pp. 30-33.

This offer President Madison believed to be an expression of Russian friendship actuated by an underlying desire to secure the advantages of neutral competition in the British monopoly of Russian trade. He considered that it was the successful outcome of the policy of cultivating the good-will of the Emperor Alexander.¹¹

Monroe, too, believed that the Emperor's proposition to make peace between the United States and Great Britain was founded upon a sincere desire to accomplish that end, as the war had seriously interfered with the commerce of Russia. In his opinion it would be wise and honorable to accept the offer. If Great Britain should accept the result was likely to be safe and even advantageous, for Russia would never exert her influence against an equitable code of neutral rights. Neither did he believe that it was necessary for the United States to wait in accepting and acting upon the mediation until it was known that it had been accepted by Great Britain. It would be impossible, he believed, that at a moment of Russian victories, when under great obligations to Russia, Great Britain should refuse the Russian mediation. Should she do so she would offend not only Russia but also a large portion of her own people.¹²

On March 11, 1813, the secretary of state wrote to Daschkoff that the President accepted the mediation of the Emperor of Russia to promote peace between the United States and Great Britain, and that without delay such arrangements would be made as would afford the Emperor the opportunity of accomplishing such an end.¹³

This occasion was considered to be of such great importance as to require a special mission of three. On April 17, 1813, the President appointed Albert Gallatin, secretary of the treasury, John Quincy Adams, the minister to Russia,

¹¹ J. Madison to T. Jefferson. March 10, 1813. Letters and other Writings of James Madison, vol. 2, pp. 559-560.

¹² Writings of James Monroe, vol. 5, pp. 278-280.

¹³ J. Monroe to A. Daschkoff. March 11, 1813. American State Papers, For. Rel., vol. 3, pp. 624-625.

and James A. Bayard, formerly a senator from Delaware, as envoys extraordinary and ministers plenipotentiary. They were given two powers for treating with Great Britain; one for peace, including a definition of neutral rights, under the mediation of Russia, and the other for a treaty of commerce. These negotiations could be carried on elsewhere than at St. Petersburg. On April 22 the President appointed Adams, Gallatin and Bayard to negotiate a treaty of commerce with Russia, while Levett Harris was appointed secretary to both missions. In this last mission Adams, as minister to Russia, was given the priority.¹⁴

In his instructions to the envoys Monroe wrote that the decision of Great Britain was not yet known, but it was presumed that she would accept the mediation owing to her friendly relations with Russia. Monroe instructed them to endeavor particularly to arrange an understanding between the United States and Russia with regard to neutral rights, and, in arguing the question of impressment and of every other neutral right, they were to explain to Russia without reserve the claims of the United States and the grounds upon which they rested. "There is not a single interest which you have to arrange in which Russia and the other Baltic powers may not be considered as having an interest with the United States. It is not to be presumed that the Emperor of Russia will wish the United States to make concessions which are to operate to his own disadvantage."¹⁵

With regard to a treaty of amity and commerce with Russia, the President considered that the occasion was particularly auspicious for concluding one. A reciprocation of the rights of the most favored nation was to be adopted as the basis of the treaty. And as a good understanding with Russia on neutral rights was "an object of the highest

¹⁴ *Annals of Congress*, 13 Congress, 1813-1814, vol. 2, pp. 2667-2668; J. Monroe to J. Adams. April 19, 1813. *Writings of James Monroe*, vol. 5, p. 251.

¹⁵ J. Monroe to Gallatin, Adams, and Bayard. April 15, 1813. *Instructions*, vol. 7. MS., State Department Archives.

importance," Monroe instructed the envoys to have this understanding placed in the treaty, but that whatever stipulations they might enter into with Russia on the subject of neutrals, they were to be careful not to commit the United States in any way to maintain and enforce those rights on the other powers or to prolong the present war with Great Britain.¹⁶

On May 11, 1813, Gallatin and Bayard left the United States to join Adams in St. Petersburg.¹⁷ On May 25, at the opening of the special session, the President informed Congress that after the close of the last session the offer of the Russian Emperor's mediation in the war between the United States and Great Britain had been formally made, and that he had accepted it and had commissioned three envoys with the requisite powers to conclude a treaty of peace with Great Britain under the mediation of Russia.¹⁸ The President did not, however, send in to the Senate the nomination of these ministers until May 31.¹⁹

Gallatin's nomination met with strong opposition on the ground that the functions of secretary of the treasury and envoy extraordinary were incompatible. By a resolution of the Senate the President was called upon to state whether Gallatin retained the office of secretary of the treasury and, in case he did, who performed the duties of that office in his absence. The President replied that the office of the secretary of the treasury was not vacated by Gallatin's appointment to Russia and that the secretary of the navy performed its duties during Gallatin's absence. The Senate then on July 19, 1813, rejected Gallatin's nomination but confirmed those of Adams and Bayard.²⁰

¹⁶Same to same. April 27, 1813. Instructions, vol. 7; MS., State Department Archives.

¹⁷A. Gallatin to Baring Bros. and Co. Gottenburg, June 22, 1813. Writings of Albert Gallatin, vol. 1, p. 546.

¹⁸Messages and Papers of the Presidents, vol. 1, pp. 562-567.

¹⁹Senate Executive Journal, vol. 2, p. 346.

²⁰Senate Executive Journal, vol. 2, p. 390; H. Adams, History of the United States, vol. 7, pp. 59-64.

The President would not remove Gallatin from the treasury but determined to leave the mission to Russia on the footing on which it was placed by the vote of the Senate. A new commission was sent to Adams and Bayard, and they were instructed that whatever had been done jointly under the commission to the three ministers, in compliance with their instructions, would not be affected by this event. They were ordered to explain to the Russian ministry and to the British ministers, in case Great Britain should have accepted the mediation and appointed ministers, that the omission of Gallatin was due to a majority of only one vote in the Senate on the ground that his appointment to Russia was incompatible with his position in the cabinet and not from any change of opinion or want of full confidence of the government or nation in him. They were especially to place this occurrence before the Emperor in such a light that he might not get the impression that a change of opinion had taken place in the President respecting the mediation of the Emperor (the great object of the mission) or respecting any other of the objects confided to it.²¹

That the President had accepted the Emperor's offer of mediation was not known in St. Petersburg until June, 1813, and then only through the English papers, which likewise said that England would decline the offer.²² This was indeed the truth. Notwithstanding Romanzoff's avowals to Adams and then to Gallatin, that the offer of mediation had been made at the same time and in the same manner to Great Britain as to the United States,²³ the first the British government heard of the mediation was upon the notice of the passport given by Admiral Warren, commanding the English fleet in the Chesapeake, for the vessel which con-

²¹ J. Monroe to Adams and Bayard. Aug. 6, 1813. Instructions, vol. 7. Daschkoff had written to Monroe that he feared that Gallatin's rejection would have a harmful effect upon the mediation. A. Daschkoff to J. Monroe. July 26, 1813, Russian Legation, vol. 1, MSS., State Department Archives.

²² J. Q. Adams, *Memoirs*, vol. 2, p. 471.

²³ *Ib.*, pp. 403, 412, 541-542, 592.

veyed Gallatin and Bayard on their way to St. Petersburg.²⁴ The question of maritime rights, the cause of the war, was one that was considered to strike at the very foundation of the supremacy of England, and under no circumstances would she submit them to the intervention of a third party, especially to such an interested party as Russia.²⁵ A meeting of the British cabinet was immediately held, and it was unanimously determined that the mediation should not be accepted. This resolution was first made known verbally to the Emperor of Russia in June at Bautzen by Lord Cathcart, the English ambassador. To this the Emperor replied that in that case he could have nothing more to do in the matter. On July 6, 1813, the English ambassador informed the Emperor in writing that Great Britain had declined his offer.²⁶

On July 13, 1813, Castlereagh sent Cathcart fresh instructions to present a formal note to the Emperor stating that the Prince Regent was ready to name plenipotentiaries to meet and treat with the American ministers about peace either at London or Gottenburg.²⁷ Before he sent these instructions, however, Castlereagh read them to Count Lieven, the Russian minister at London.²⁸

Romanzoff had hinted vaguely to Adams that England would decline the mediation. On June 22, 1813, he told him that he had received despatches from Count Lieven stating that the British government had replied that there was no mediation which they would so readily and gladly accept as that of the Emperor of Russia, but their differences with the United States, involving certain principles of the internal

²⁴ *Ib.*, pp. 551, 591; Castlereagh to Cathcart. July 5, 1813. Foreign Office Records, Russia, 83, quoted in Dorman, *History of the British Empire in 19th Century*, vol. 2, p. 172.

²⁵ *Ib.*, Castlereagh to Cathcart. July 14, 1813. Castlereagh Letters, vol. 9, pp. 34-35; H. Adams, *History of the United States*, vol. 7, pp. 341-342.

²⁶ J. Q. Adams, *Memoirs*, vol. 2, pp. 542, 551, 591.

²⁷ H. Adams, *History of the United States*, vol. 7, p. 342.

²⁸ Castlereagh to Cathcart. July 14, 1813. Castlereagh Letters, vol. 9, p. 35.

government of England, were of a nature which they did not think suitable to be decided by a mediator. To this Adams replied that it was no more than he had expected, but he was glad that the President had shown by the appointment of such distinguished envoys his esteem for the Emperor's friendship as well as the consistent desire of the American government for peace. Romanzoff answered that such was the light in which he had represented it to the Emperor, and he would now consult with the Emperor whether after the step taken by the American government it would be advisable to renew the proposal to Great Britain, for after-considerations might produce more pacific dispositions.²⁹

Thus, when Gallatin and Bayard arrived in St. Petersburg, on July 21, 1813, the prospects for the success of their mission were "not flattering." Although it was widely reported that Great Britain would decline the proposal of Russian mediation, yet nothing was officially known.³⁰

Adams presented his colleagues to Count Romanzoff on July 24. They delivered to the Chancellor copies of their letters of credence and of their powers. He at once warned them that their mission would not be immediately accomplished as the Emperor's absence from St. Petersburg would cause some delay. Upon Adams's mentioning that the subject of one of their powers was to form a treaty of commerce with Russia, the Count answered that they might be very sure they would be listened to in everything they might have to say on that topic.³¹

On July 30, through Harris, the secretary of the mission, the American ministers sent a note to the Chancellor officially stating the acceptance by the United States of the Emperor's

²⁹ J. Q. Adams to J. Monroe. June 26, 1813. American State Papers, For. Rel., vol. 3, p. 627; J. Q. Adams, *Memoirs*, vol. 2, pp. 473, 479-480.

³⁰ J. Q. Adams to J. Monroe. Aug. 9, 1813. Despatches, Russia, vol. 3, no. 116. MS., State Department Archives; J. Q. Adams, *Memoirs*, vol. 2, pp. 490-491.

³¹ J. Q. Adams, *Memoirs*, vol. 2, p. 491; American Commissioners to J. Monroe. Aug. 17 (29), 1813. Writings of Albert Gallatin, vol. 1, pp. 569-574.

proffered mediation. They said they were ready, in pursuance of their powers under the mediation, to treat of peace with Great Britain, and requested to be informed as to what measures the Russian and British governments had taken towards this end.⁸³

The American commissioners had little hope that England would accept the mediation of Russia. But as the Russian government refused to consider that its offer had been declined, the American commissioners thought that was a point for the Russian government to decide, not themselves.⁸⁴

Having heard many reports that Great Britain had rejected the Russian proposal, Gallatin and Bayard did not wish to be detained unnecessarily at St. Petersburg if there was no hope of success, and so they asked Romanzoff to inform them as soon as possible if Great Britain should finally reject the mediation.⁸⁵ The Count replied that he was about to send them an answer to their official note, in which they would find that the British government had written to Count Lieven intimating that the acceptance of the Russian mediation would be fruitless on account of certain pretences then advanced by the American government. The Count said that as he wished to be informed about the pretensions referred to, especially as to the nature and history of the dispute about impressment, he requested that they send him an informal memoir on the subject. Gallatin and Bayard then put the question directly to the Count, whether, from the terms or nature of the answer which the British cabinet had given to the proposition of Russian mediation, it was his opinion that the British cabinet intended that the Russian government should understand that the

⁸³ J. Q. Adams, *Memoirs*, vol. 2, p. 497; *Writings of Albert Gallatin*, vol. 1, pp. 569-574.

⁸⁴ James A. Bayard to Cæsar Rodney. Oct. 15, 1813. Bayard Letterbook, MS., Lenox Library, New York.

⁸⁵ J. Q. Adams, *Memoirs*, vol. 2, pp. 498-499; *American Commissioners to J. Monroe*. Aug. 17 (29), 1813. *Writings of Albert Gallatin*, vol. 1, p. 570. This request was made on August 1, 1813.

mediation would not be accepted. The Count evaded a direct reply. He said that, whatever the real intention might be, he did not consider that there was anything in the answer of the British government which ought to be deemed final or to preclude the Russian government from renewing the overture, even in a more formal manner than had yet been done. He said that he had, on hearing of their arrival in Gottenburg, already written to the Emperor for authority to do this. He expressed his desire that the American envoys should remain in St. Petersburg until further information had been received from Count Lieven, and assured them that as soon as the Russian government was persuaded that Great Britain was determined not to accept the mediation he would not delay in informing them.⁸⁵

The Count's promised reply to their first official note was received the next day, August 2. Of this the American ministers considered no acknowledgment was necessary. But on the following day they sent a note to the Chancellor proposing the negotiation of a commercial treaty between the United States and Russia. Romanzoff replied that it would be impossible in the present condition of European affairs, and especially in the Emperor's absence, to conclude any negotiation of that kind, but he would, however, inform the Emperor of their proposal and take his orders thereupon.⁸⁶

When the Emperor had replied to the English refusal of his mediation that he would have nothing more to do with it, he was probably sincere in what he said. He had prevented an alliance between France and the United States and had thus accomplished the object for which the offer of mediation had been made. He had no good reason for

⁸⁵ American Commissioners to J. Monroe. Aug. 17 (29), 1813. Writings of Albert Gallatin, vol. 1, p. 571.

⁸⁶ *Ib.*, pp. 571-572; J. Q. Adams, *Memoirs*, vol. 2, 498-499; American Commissioners to Count Romanzoff. Aug. 3, 1813; Count Romanzoff to American Commissioners. Aug. 5 (July 24), 1813. Inclosures in American Commissioners to J. Monroe. Aug. 17 (29), 1813. Despatches, Russia, vol. 4. MSS., State Department Archives.

breaking with Great Britain, who had recently become the paymaster of his forces.⁸⁷ But Romanzoff did not intend to give up the mediation. He was the head of the French party at the Imperial court, and, though still chancellor and minister of foreign affairs, his influence was on the wane, while the Emperor transacted most of his foreign affairs through Count Nesselrode, who was with him at his military headquarters.⁸⁸ The policy of protecting neutral rights had always been a popular one in Russian diplomacy. Neutral rights was a leading feature in the mediation and one in which England would brook no interference. If Romanzoff could get the Emperor to insist upon the mediation his return to power would be secured, for England would either become irritated and break off her Russian alliance, or if she accepted the mediation it could be used to adopt principles favorable to Russian commerce. With the end in view of securing his own return to power, Romanzoff became the advocate of the mediation in face of the British refusal, and at the news of the arrival of Gallatin and Bayard he wrote to the Emperor pressing a renewal of the offer. This reached the Emperor during the armistice which followed Napoleon's victory of Bautzen, and when the Emperor was in the midst of great perplexity. Napoleon was making advances to him. Alexander himself was endeavoring to win over the Emperor of Austria in order to crush Napoleon, but the Emperor Francis wavered as to which side he should take.⁸⁹ In doubt as to the future, the indecision which formed so strong an element of Alexander's character came to the front, and he gave his consent to a renewal of the offer of mediation.

In an interview which Adams had with the Chancellor on August 10, 1813, Romanzoff informed him that he had just

⁸⁷ Rose, *Life of Napoleon I*, vol. 2, p. 292.

⁸⁸ *Ib.*, pp. 248, 252; Fournier, *Napoleon the First*, p. 560; J. Q. Adams, *Memoirs*, vol. 2, p. 438.

⁸⁹ Fournier, *Napoleon the First*, pp. 613, 615; Rose, *Life of Napoleon I*, vol. 2, p. 299.

received despatches from the Emperor in which that ruler fully approved his suggestion to renew the proposal of mediation, and had commanded him to carry it into effect according to his own ideas. Thus authorized, the Count said he would immediately order Count Lieven to renew the proposal to the British government. Romanzoff further stated that as Russia's only object and motive was to produce a reconciliation, he wished Count Lieven to be supplied with every means that might prevail upon the British government to accept this new offer. Therefore he requested that Gallatin and Bayard should send him the memorial which they had promised him.⁴⁰

Romanzoff then told Adams that the Emperor was extremely gratified at the way in which the United States had accepted his offer of mediation and wished to show his appreciation by some special token of distinction to the extraordinary mission. As the Emperor had turned the matter over to him, he considered that the best way to do so was either to defray the expenses of the mission or to present to the envoys some special production of Russian manufacture, but he first requested Adams to give him his candid opinion on the subject. Adams replied that he would have to consult his colleagues about the matter, but that he himself was very grateful to the Emperor for his kind intention, and while he did not speak for the others he did not believe that either of the plans could be accepted, as the Constitution of the United States forbade public officers to accept presents or personal donations of any kind from foreign sovereigns. The Count answered that he was aware of this prohibition, but he thought that this was not to be considered in the nature of a present or gift, but merely as a manifestation of respect in order to distinguish the mission from an ordinary legation.⁴¹

⁴⁰ J. Q. Adams, *Memoirs*, vol. 2, pp. 501-502; *American Commissioners to J. Monroe*. Aug. 17 (29), 1813. *Writings of Albert Gallatin*, vol. 1, p. 572.

⁴¹ J. Q. Adams, *Memoirs*, vol. 2, pp. 504-505.

When Gallatin and Bayard had arrived at Gottenburg Gallatin wrote to Baring Brothers and Company, who were to be their bankers, that they had been appointed with full powers to treat of peace with Great Britain under the mediation of Russia, and requested them to make known their arrival in Gottenburg to the British government.⁴² On August 17, 1813,⁴³ Gallatin received a reply from Alexander Baring, dated July 22, informing him that by the time he received that letter he would have been informed that Great Britain had refused the mediation, but that she desired to treat separately and directly at London, or Gottenburg, if more agreeable to the American envoys. Also, as the war was a sort of family quarrel, foreign interference could only do harm and irritate at any time but more especially at the present condition of affairs in Europe, when attempts would be made to make a tool of America.⁴⁴

As the information in this letter bore every evidence of having come directly from Castlereagh, the American commissioners were greatly surprised that they had received no news of any such offer from England.⁴⁵ They became exceedingly anxious and uneasy under the responsibility of staying in Russia with the knowledge that Great Britain had not only declined the mediation but had offered to treat with them directly, for the chief object of their mission was to secure peace with Great Britain. Deciding that Baring's letter could not be made the basis of any official action by them, Gallatin and Bayard requested Adams to see Romanzoff and ask him for an official notification in writing of his intention to renew the proposal of mediation.

On August 19, 1813, Adams informed Romanzoff of his colleagues' request. The count explicitly assured him that

⁴² A. Gallatin to Baring Brothers and Company. Gottenburg, June 22, 1813. Writings of Albert Gallatin, vol. 1, pp. 545-546.

⁴³ A. Gallatin to Alex. Baring. St. Petersburg, August 27, 1813. Writings of Albert Gallatin, vol. 1, pp. 564-567.

⁴⁴ Alex. Baring to A. Gallatin. London, July 22, 1813. Writings of Albert Gallatin, vol. 1, pp. 546-552.

⁴⁵ J. Q. Adams, *Memoirs*, vol. 2, p. 509-510.

nothing had been received from the British government which could be considered as a refusal to accept, but that from the tenor of the memoir which the American envoys had sent⁴⁶ and from the nature of the proposals which they were authorized to offer, as shown in it, he had strong hopes that not only would the British government accept the mediation but ultimately would be perfectly satisfied that the negotiations had taken this course. Adams then reminded Romanzoff that he had told him that Count Lieven had reported that Great Britain had objected to the mediation on the ground that the dispute with America involved principles relative to her internal government. The Count replied that Adams was mistaken, for he had never received any such information from Count Lieven. Adams then reminded him of their conversation on June 22 in which he had mentioned it, but the Count disclaimed any recollection of it. Romanzoff then asked Adams if the American envoys had not another power to treat with England directly. Adams replied that they had not.⁴⁷ The Count then changed the subject. He asked Adams what his colleagues had thought about the special mark of honor which the Emperor wished to show the mission. Adams told him that Gallatin and Bayard had concurred in the views he had already expressed to him, that while highly gratified at the Emperor's intentions they considered both proposals as incompatible with the American Constitution, and that, without presuming to dictate to the Emperor, they had thought that the very words in which the mission and its reception should be announced in the official journals might be made to manifest fully the Emperor's intention to honor it, and to have its proper effect on the opinions of Europe generally and on those of England in particular. The Count replied that such was not the Emperor's

⁴⁶ This was sent August 14. Writings of Albert Gallatin, vol. 1, p. 572-573.

⁴⁷ J. Q. Adams, *Memoirs*, vol. 2, pp. 509-512; J. Q. Adams to J. Monroe. Aug. 28, 1813. *Despatches, Russia*, vol. 3, no. 117. MS., State Department Archives; American commissioners to J. Monroe. August 17 (29), 1813. Writings of Albert Gallatin, vol. 1, p. 573.

wish, but that he would see that it was done as the envoys wished, and that there would be nothing further said on the subject.⁴⁸

As if in answer to the request of Gallatin and Bayard, made through Adams, Count Romanzoff, on August 24, read to the American envoys his despatches to Count Lieven directing him to renew to the British government the proposal of the Emperor's mediation. These despatches consisted of a short letter to Count Lieven directing him to present the official note to Lord Castlereagh, the official note itself already drawn up and lacking only Lieven's signature, and a longer letter to him containing arguments to induce the acceptance by the British government of the mediation. This letter Count Lieven was authorized to communicate *in extenso* to Lord Castlereagh. There was one passage in the official note and one in the long letter to Lieven to which Gallatin objected, both of which the Count changed, though with some little unwillingness, to suit the American envoys.⁴⁹

Castlereagh's despatch of July 13 to Cathcart, giving him the full reasons of the British government for declining the mediation, was not received until near the last of August. When Cathcart began to communicate its contents to the Emperor, Alexander said that it was unnecessary to go into any further details, as he had already instructed his Chancellor to express his regret to the American envoys that as England had declined his mediation he could take no further part in it.⁵⁰ But in order that there might be no misunderstanding Cathcart wrote at Töplitz, on September 1, an official note to Count Nesselrode, in which he informed him that the British government declined the Emperor's mediation, but was ready to treat of peace with the American plenipotentiaries at London or at Gottenburg.⁵¹

⁴⁸ J. Q. Adams, *Memoirs*, vol. 2, pp. 514-515.

⁴⁹ *Ib.*, pp. 516-518.

⁵⁰ *Ib.*, pp. 542-543.

⁵¹ J. Q. Adams, *Memoirs*, vol. 2, p. 593; Lord Cathcart to Count Nesselrode, Töplitz, Sept. 1, 1813. *American State Papers*, For. Rel., vol. 3, p. 622.

The despatches which Romanzoff had read to the American envoys on August 24 were sent to Count Lieven on the twenty-eighth.⁵² Copies were also sent to the Emperor. In spite of his reply to Cathcart's communication of about a month before, Alexander sent Romanzoff a note of four lines in his own handwriting, expressing his complete approval of his letter to Lieven on the American affair and requesting him to carry out the matter in that manner. This was a complete justification for Romanzoff of his policy in detaining the American ministers in St. Petersburg by keeping from them the news of England's refusal and of her offer to treat separately. On October 10, 1813, the Chancellor showed this note to Adams.⁵³

It appeared as if, after all, the mission might make some progress. Owing to the Emperor's absence the envoys had not even presented their letters of credence. This delay in the recognition of their diplomatic capacity was of no importance as Great Britain had not expressed any intention to appoint plenipotentiaries to treat with them. In consequence of information from Romanzoff that the Emperor had authorized him to receive their letters of credence, the American envoys, on October 12, delivered them in person to the Chancellor, and the mission was at last fully received as a foreign legation at the Russian court.⁵⁴

It was not until the last of October that the news reached Gallatin through some American newspapers that his appointment had been rejected by the Senate. Without waiting for any official information, he wrote to Count Romanzoff that the Senate had refused to confirm his nomination as envoy while he still held the office of secretary of the treasury, and that while no official information on the subject had been received from America; yet he would no longer

⁵² J. Q. Adams, *Memoirs*, vol. 2, p. 539.

⁵³ *Ib.*, p. 531. The Emperor's note was dated, Töplitz, Sept. 8/20.

⁵⁴ J. Q. Adams, *Memoirs*, vol. 2, p. 532; American Commissioners to J. Monroe. Oct. 3 (15), 1813. *Writings of Albert Gallatin*, vol. 1, pp. 587-588.

continue to exercise functions that did not belong to him. But no inconvenience, he said, would result from this circumstance, as the two other members of the mission were authorized by the original appointment to act as well without him as with him.⁵⁵

On that very day, November 1, the English consul at St. Petersburg told Harris that Lord Walpole, the English resident at St. Petersburg, had informed him that on September 20⁵⁶ Lord Cathcart had delivered to Count Nesselrode at the Emperor's headquarters a memoir from the British government, stating at full length their reasons for declining any mediation in the war with the United States, and that after reading this memoir the Emperor had said that in that case he could have nothing more to do in the affair. The consul also said that the British government had offered to treat directly with the American envoys. Tired of waiting, Gallatin and Bayard were most eager to leave, and yet they thought it would be unjustifiable to go without official information from the Russian government concerning the rejection of the mediation, and so they at once sent Harris to Romanzoff to inquire if he had received any such news. The Count told Harris that he had received from Count Lieven a despatch in answer to the instructions which he had sent him on August 28 to renew the offer of the Emperor's mediation, in which Lieven said that he had not done so because when that despatch had arrived he had already received from the British government and transmitted to the Emperor a memoir formally and explicitly rejecting the mediation. But the Chancellor said that he had received from the Emperor no orders, nor even any information, about this memoir from England.⁵⁷

⁵⁵ J. Q. Adams, *Memoirs*, vol. 2, p. 538; A. Gallatin to Count Romanzoff. Nov. 1, 1813. *Writings of Albert Gallatin*, vol. 1, pp. 590-591.

⁵⁶ This is probably a mistake for September 1.

⁵⁷ J. Q. Adams, *Memoirs*, vol. 2, pp. 539-540. Lord Walpole told J. Q. Adams, on April 2, 1814, that Count Lieven did renew the offer of mediation. *Ib.*, p. 592.

On the evening of the same day Gallatin saw Romanzoff with regard to his departure. The Count advised him to wait for instructions from his home government before he gave up his place on the mission. Gallatin spoke of Bayard's situation and his wish to go with him, as they now knew it to be a fact that Great Britain had definitely rejected the Emperor's mediation, if they could receive instructions in such form as to warrant his departure. The Count replied that he was not yet in possession of such facts as would justify him in making to them a written communication. He said he had received two despatches from Lieven, one some days before (Gallatin inferred about ten days), in which he acknowledged the receipt of the instructions to renew the offer of mediation.

Concerning the second despatch, received two days previously, Romanzoff repeated to Gallatin what he had told Harris.⁵⁸

Several days later Romanzoff repeated to Adams the substance of what he had said to Gallatin, but with one important addition. He said that in the first despatch from Lieven, which was an answer to the instruction to renew the offer of mediation, Lieven wrote that he had communicated confidentially and verbally with Lord Castlereagh concerning the former answer given by the British government to the Emperor's offer, and that Castlereagh had admitted that the former answer was not a rejection. With regard to the memoir which Lieven wrote about in his second letter, Romanzoff declared that he had no information of it from the Emperor. The Count likewise said that Lord Walpole had insinuated rather than directly asserted that Lord Cathcart had informed the Emperor of the refusal of England to treat under the mediation and at the same time had declared the readiness of the English government to treat directly with the American envoys either at London or Gottenburg. Adams, exasperated at Romanzoff's diplomacy, replied that

⁵⁸ J. Q. Adams, *Memoirs*, vol. 2, pp. 540-541.

he had heard that Walpole had gone even further and had publicly stated that the Emperor had told Lord Cathcart he had given orders that the Americans should be informed that he could proceed no further in the business. To this the Count made no reply. Adams then spoke of the anxiety of Gallatin and Bayard to return home. The Chancellor answered that he thought neither of them could go until official and positive information should come to them to warrant their departure.⁵⁹

Without instructions from home, without any official information from the Russian government that its offer of mediation had been declined by Great Britain, the American envoys still remained in St. Petersburg. They had heard unofficially, too, that Great Britain had offered to treat with them directly. To secure peace for their country was the first and great object of their mission. They feared that to depart without any official information as to what Great Britain would do would destroy every prospect of accomplishing the object of their mission and offend the only nation of Europe which had shown any friendly disposition towards the United States. Gallatin, the only one who had an excuse for departing, lingered on in hope that some information would come from the Emperor's headquarters which would allow Bayard to go with him.⁶⁰ But none came. The Emperor was forcing Romanzoff out of office. He had forbidden any one to write to the Chancellor, while he himself never wrote to him on matters of business.⁶¹

Determined finally to depart, Gallatin, at the beginning of January, 1814, pressed Romanzoff to tell him when an answer might be received from the Emperor as to what information should be given to the American envoys concerning Great Britain's action in the peace negotiations. The Count said he could not tell, and then proceeded to complain

⁵⁹ J. Q. Adams, *Memoirs*, vol. 2, pp. 544-547.

⁶⁰ A. Gallatin to J. Monroe. Jan. 7, 1814. *Writings of Albert Gallatin*, vol. 1, pp. 593-594.

⁶¹ J. Q. Adams, *Memoirs*, vol. 2, p. 553.

of the Emperor's treatment of him. He said that he was no longer able to do the business of his office, and that his sole motive for not resigning was that he wished to close the affair of the American peace mission.⁶²

Unable to obtain any official information as to the fate of the offer of mediation or of England's offer to negotiate directly, Gallatin and Bayard left St. Petersburg on January 25, 1814.⁶³

On February 1, 1814, Romanzoff sent for Adams and showed him a despatch from Count Lieven which he said he had received the day before. It was dated December 8 (November 26, O. S.), 1813, and stated that, as the British government had been informed of the definitive refusal of the American ministers at St. Petersburg to negotiate for peace directly with them on account of the limitation of their powers to a negotiation under the Emperor's mediation, Lord Castlereagh had told him (Lieven) that, in order to avoid some of the delays which would arise from waiting until the envoys could write to their government for further instructions and powers, he himself had just written to Secretary Monroe, proposing to him to send his instructions and powers for a direct negotiation through the commander of the English fleet in American waters. As this was the first information on this subject that Adams had received through the Russian government, he requested a copy of this letter, and as it was refused he drew the conclusion that the delay in informing him of its contents was due to design and not neglect.⁶⁴

Castlereagh had, indeed, made such a communication to the American government as Lieven had reported. The

⁶² *Ib.*

⁶³ A. Gallatin to Baring Brothers and Company. Amsterdam, March 7, 1814. Writings of Albert Gallatin, vol. 1, p. 600.

⁶⁴ J. Q. Adams, *Memoirs*, vol. 2, pp. 568-569; J. Q. Adams to J. Monroe. Feb. 5, 1814. Romanzoff to J. Q. Adams. Jan. 21 (Feb. 2), 1814. Despatches, Russia, vol. 2, no. 128 and inclosure. MSS., State Department Archives.

British minister on November 4, 1813, wrote to the American secretary of state inclosing a copy of Cathcart's note of September 1, 1813, to Nesselrode declining the Russian offer of mediation, yet at the same time stating the willingness of the British government to negotiate directly with the American plenipotentiaries either at London or at Gottenburg. In his note Castlereagh stated that Cathcart had informed him that the American commissioners at St. Petersburg had intimated in reply to this overture that they had no objection to a negotiation at London and were equally desirous, as the British government had declared itself to be, that this business should not be mixed with the affairs of the continent of Europe, and that their powers were limited to negotiating under the mediation of Russia. Therefore if the President was willing to enter upon a direct negotiation, Castlereagh proposed that in order to avoid delays new instructions should be sent to the commissioners at St. Petersburg through the commander of the English fleet in American waters. This offer of direct negotiation for peace Monroe accepted in the President's name on January 5, 1814.⁶⁵

Thereupon the secretary of state wrote to Adams and Bayard directing them to go immediately to Gottenburg, as arrangements had been made for a direct negotiation there between the United States and Great Britain, without the aid of Russian mediation.⁶⁶

These instructions were received by Adams on April 1, 1814.⁶⁷ On the next day Adams saw Lord Walpole and expressed to him his great surprise at seeing it stated in Castlereagh's note to Monroe (for Monroe had sent Adams a copy) that Cathcart's note to Nesselrode had been made known to the American plenipotentiaries and they had answered the overture contained in it. Adams declared that

⁶⁵ Castlereagh to J. Monroe. Nov. 4, 1813; J. Monroe to Castlereagh. Jan. 5, 1814. *American State Papers, For. Rel.*, vol. 3, pp. 621, 622-623.

⁶⁶ J. Monroe to Adams and Bayard. Jan. 8, 1814. *Ib.*, p. 701.

⁶⁷ J. Q. Adams, *Memoirs*, vol. 2, p. 590.

no communication of it had ever been made to them and that, excepting what he had heard about it through Walpole, he knew nothing of it until he saw it in the printed documents which he had received the day before. Walpole replied that he did not doubt that all knowledge of this note had been purposely withheld, because, if it had been communicated, Romanzoff, who had gotten into his head some wild project of a congress and a maritime law, saw that Russia could no longer have anything to do in the matter. Walpole said there was one thing he was as certain of as of his own existence, and he believed that he could prove it too, and that was that Romanzoff had been cheating both parties. Adams replied that whatever Count Romanzoff's projects about maritime law might have been, he had never manifested to him the slightest intention of connecting them with the mediation which he had been given to understand had originated with the Emperor himself.⁶⁸

A week later Adams wrote to Senator Weydemeyer, who now had charge of the department of foreign affairs *ad interim*, that the President had accepted the Prince Regent's offer for a direct negotiation, and that while the President would have wished to have asked first if such action would be agreeable to the Emperor, he had not done so as he did not wish to delay opening the negotiations. Adams then strenuously denied that the American ministers had ever made any answer to Cathcart's overture to Nesselrode, inasmuch as they could never obtain any official information that such an overture had been made.⁶⁹

On the next day Adams called upon Weydemeyer relative to his departure, and again renewed his disavowal of the answer stated by Lord Castlereagh to have been given by the American envoys to the English proposal of a direct

⁶⁸ J. Q. Adams, *Memoirs*, vol. 2, pp. 591-592.

⁶⁹ J. Q. Adams to J. Monroe. April 15, 1814; J. Q. Adams to Weydemeyer. March 26 (April 7), 1814. *Despatches, Russia*, vol. 2, no. 132 and inclosure. MSS., State Department Archives.

negotiation at London or Gottenburg. Weydemeyer said he would not fail to inform the Emperor of it.⁷⁰

Before leaving St. Petersburg Adams called to say farewell to Count Romanzoff. Adams mentioned the note which he had sent to Weydemeyer, but the Count said that he had not seen it. Adams then told him of his disavowal of the answer which Castlereagh had stated to have been made by the American envoys. The Count declared that he had never received any such note as that of Lord Cathcart's. He expressed surprise at hearing that it was addressed to Count Nesselrode. He endeavored to explain it by supposing that Walpole had written to Cathcart reports of conversations, loose and unofficial, from which these assertions of Lord Castlereagh might have arisen. All this proceeded, he declared, from the double mode of transacting business, at St. Petersburg through one channel and at headquarters through another. Adams told the Count that he and his colleagues had been very much surprised to see these statements, and he in particular, when he compared Lord Cathcart's note, dated September 1 (N. S.), 1813, with the letter from the Emperor to him (Romanzoff) dated September 8 (O. S.), 1813, and therefore twenty days after Cathcart's note.⁷¹

On April 28, 1814, Adams, on a leave of absence, left St. Petersburg for Gottenburg.⁷²

In consenting to a direct negotiation with Great Britain the United States still relied upon Russia. Russia had hitherto opposed Great Britain in all questions of neutral rights, and it was inferred that a respect for the general policy of Russia and the friendly sentiments and interposition of the Emperor would influence the British government to adopt a pacific policy towards the United States.⁷³

⁷⁰ J. Q. Adams, *Memoirs*, vol. 2, p. 594.

⁷¹ J. Q. Adams, *Memoirs*, vol. 2, pp. 599-600.

⁷² *Ib.*, p. 603.

⁷³ J. Monroe to American Commissioners. June 25, 1814. *American State Papers, For. Rel.*, vol. 3, pp. 703-704; same to same. July 27, 1814. *Instructions*, vol. 7. MS., State Department Archives.

Monroe believed that Great Britain had declined the mediation because she feared that the United States and Russia might come to some understanding and prevent her from obtaining as favorable a treaty as she otherwise might. He therefore instructed the American peace commissioners that in agreeing to treat directly with Great Britain not only was no concession contemplated on any point in controversy, but the same desire was cherished to preserve a good understanding with Russia and the Baltic powers, as if the negotiation had taken place under Russian mediation; and that Adams and Russell had been appointed on the commission in order that they might keep up direct communication with the governments to which they were accredited and endeavor to get Russia and Sweden to exert their influence upon England to moderate her demands.⁷⁴

Monroe wrote to Adams, February 3, 1814, that he was to endeavor to obtain the good offices of the Emperor of Russia in the proposed negotiation with Great Britain, and to influence that monarch he was to explain to him the Embargo and the favored conditions allowed to Russian trade in the United States.⁷⁵

On the last day of March, 1814, the Allied Sovereigns entered Paris, and the Emperor Alexander became the leader in dictating terms to France. From London Gallatin wrote to W. H. Crawford, the American minister to France, that the British ministry would be neither disposed to make the least concession in order to obtain peace, nor at all displeased in case of failure of the negotiations. He said that he believed that the only external check to this disposition was the friendly interference of the Emperor Alexander, urging upon the British government, not as a mediator but as a common friend, his strong desire for a general restoration of peace in the civilized world. Of the Emperor's friendly

⁷⁴ Same to same. Jan. 28, 1814. Instructions, vol. 7. MS., State Department Archives.

⁷⁵ J. Monroe to J. Q. Adams. Feb. 3, 1814. Instructions, vol. 7. MS., State Department Archives.

disposition towards the United States there was no doubt, but as he might have now forgotten them, Gallatin urged Crawford that he or some one fitted for the purpose should call Alexander's attention to the situation of the United States and to the great weight which his opinion would have at that time upon the British government.⁷⁶

But the expectations of the American government and its envoys that the Russian Emperor would interest himself further in the peace negotiations were in vain. Shortly after the arrival of the allies in Paris Crawford called upon Count Nesselrode, but he could not be seen. Soon afterwards Crawford called a second time, and again he was informed that the Count was too busy to see him. In despair of getting an interview with Nesselrode, Crawford sent him a note requesting an audience and saying that, as he foresaw that his engagements might prevent his compliance with the request, he desired him to communicate to the Emperor his wish to be presented to a monarch who had given such proofs of friendship to the United States. To this note Crawford received no reply. He then requested La Fayette to endeavor to have his object made known to Nesselrode or to the Emperor through La Harpe, formerly the Emperor's tutor. But every effort through this channel likewise proved unsuccessful. To Crawford it seemed as if there was a fixed determination to prevent the approach of any one who had anything to do with the United States.⁷⁷

But about May 20, 1814, Crawford was informed by La Fayette that if he would draw up a short statement of the reciprocal causes of complaint between the United States and England he (La Fayette) would have it given to the Emperor. Without any hope of success Crawford drew up such a note, which the Emperor did receive.⁷⁸

⁷⁶ A. Gallatin to W. H. Crawford. April 21, 1814. Writings of Albert Gallatin, vol. 1, pp. 602-605.

⁷⁷ Crawford to American commissioners. Paris, May 13, 1814. Writings of Albert Gallatin, vol. 1, pp. 614-616.

⁷⁸ Same to same. Paris, May 24, 1814. *Ib.*, p. 619; La Fayette to Crawford. May 25, 1814. *Ib.*, pp. 620-621.

On May 25, 1814, at the house of Madame de Staël, La Fayette had a long conversation with the Emperor Alexander about American affairs. The Emperor told him that he had read with much pleasure and interest Crawford's note which La Fayette had sent him. La Fayette called to his attention the confidence which the United States had shown in him by their ready acceptance of his mediation. The Emperor replied that he had attempted twice to bring about a peace. La Fayette then urged him to make a third attempt, to exert his personal influence to put a stop to a war which was so hostile to the cause of humanity. The Emperor promised that he would do so, and said that his journey to London would afford opportunities of which he would try to make the most.⁷⁹

After the Emperor of Russia had arrived in London Gallatin and Levett Harris had an interview with him. The Emperor gave them to understand that he could not now interfere. He said that his friendly dispositions towards the United States were unimpaired, that he earnestly wished that peace might be made between them and England, and that he regretted that his efforts in that direction had been fruitless, but he did not believe that he could be of any service now on that subject, as England would not admit a third party to interfere in her dispute.⁸⁰

Although Gallatin saw that no active aid could be expected from Russia in behalf of the United States, he presented to the Emperor an unofficial note respecting the question of impressment and the terms on which the United States were willing to make peace, as he considered it important to preserve in the Emperor's mind a favorable opinion of the grounds upon which the United States had

⁷⁹ La Fayette to W. H. Crawford. May 26, 1814. Writings of Albert Gallatin, vol. 1, pp. 623-624.

⁸⁰ A. Gallatin to J. Monroe. London, June 20, 1814. *Ib.*, pp. 632-633.

made war, of the rights they were maintaining, and of their general pacific disposition.⁸¹

In March, 1814, Daschkoff wrote to the secretary of state complaining of the harmful effects on Russian commerce of the embargo of December 7, 1813. In June he wrote again that although the embargo had now been repealed, yet Russian vessels were still interrupted, molested, and captured on the slightest pretext by the public armed vessels and privateers of the United States.⁸²

As it was then the policy of the American government to gain the influence and favor of the Russian Emperor, the President, on June 29, 1814, issued a proclamation directing "all the public armed vessels of the United States and all private armed vessels commissioned as privateers or with letters of marque and reprisal not to interrupt, detain, or otherwise molest or vex any vessels whatever belonging to neutral powers or the subjects or citizens thereof, which vessels shall be actually bound and proceeding to any port or place within the jurisdiction of the United States, but on the contrary to render to all such vessels all the aid and kind offices they may need or require."⁸³

On the same day Secretary Monroe sent Daschkoff a copy of this proclamation, and said that the President had issued it in order to give "a strong proof of his desire to facilitate the commercial intercourse and cultivate friendship with Russia."⁸⁴ On the same day, too, Monroe wrote to the peace envoys, sending them a copy and informing them that the President had been induced to take the action by the complaints made by the Russian minister.⁸⁵

⁸¹ A. Gallatin to Emperor Alexander. June 19, 1814. *Writings of Albert Gallatin*, vol. 1, pp. 629-631; A. Gallatin to J. Monroe. New York, Nov. 30, 1814. *Ibid.*, pp. 668-669.

⁸² A. Daschkoff to J. Monroe. March 7, 1814; same to same. June 26, 1814. Russian Legation, vol. 1. MSS., State Department Archives.

⁸³ *Messages and Papers of the Presidents*, vol. 1, pp. 553-554.

⁸⁴ J. Monroe to A. Daschkoff. June 29, 1814. *Notes to Legations*, vol. 1. MS., State Department Archives.

⁸⁵ J. Monroe to American Commissioners. June 29, 1814. *Instructions*, vol. 7. MS., State Department Archives.

The Emperor Alexander, however, showed no further active interest in the peace negotiations between the United States and Great Britain. The Russian project of mediation had turned out to be a bitter disappointment for the American government. Its policy of looking to Russia to protect the interests of the United States had proved a failure. But however much the American government might be disappointed that the Emperor's conduct was so wholly different from what they had expected, it was considered that the best policy was not to take any notice of it. And on August 11, 1814, Monroe sent instructions to this effect to the envoys at Ghent.⁸⁸

⁸⁸ Same to same. August 11, 1814. Instructions, vol. 7. MS., State Department Archives.

CHAPTER V.

THE QUESTION OF CONSULAR IMMUNITY.

Immediately after the signature of the treaty of Ghent John Quincy Adams was transferred from his post of minister to Russia to that of minister to Great Britain. And on February 27, 1815, President Madison nominated to the Russian mission James A. Bayard of Delaware, who had been one of the peace commissioners, whose nomination the Senate at once confirmed.¹ Bayard, however, did not proceed to St. Petersburg, but returned to America on account of his ill health and died the second day after his arrival, August 2, 1815.²

In the meanwhile the American mission to St. Petersburg was in the hands of Levett Harris, as *chargé d'affaires*. His relations with the Russian government were of the friendliest character. On January 20, 1815, before the treaty of Ghent had been ratified, Harris confidentially communicated its articles to Privy Councillor de Weydemeyer, who was still in charge of the department of foreign affairs.³ The Russian government on its side was equally cordial. It offered to obtain through its minister at Constantinople the good offices of the Sultan in securing favorable arrangements for the United States with Algiers.⁴ On May 26, 1815, Harris wrote to the secretary of state urging that a minister be appointed, as the disposition of the Russian government toward the United States was so very favorable.⁵

¹ Senate Executive Journal, vol. 2, pp. 623, 624.

² J. Q. Adams, *Memoirs*, vol. 3, p. 183; H. Adams, *History of the United States*, vol. 9, p. 89.

³ L. Harris to Weydemeyer. Jan. 8 (20), 1815. Despatches, Russia, vol. 5, no. 5, inclosure. MS., State Department Archives.

⁴ J. Monroe to L. Harris. Dec. 23, 1815, Instructions, vol. 8. MS., State Department Archives.

⁵ L. Harris to J. Monroe. May 14 (26), 1815. Despatches, Russia, vol. 5, no. 7. MS., State Department Archives.

In America the relations between the two governments were upon the same friendly footing. On May 6, 1815, Daschkoff intimated in a note to the secretary of state that he had been authorized to make a reciprocity treaty with the United States. By an act of March 3, 1815, Congress had declared that whenever the President should be satisfied that a foreign nation had removed the discriminating duties on American vessels and American goods entering into that country, then he was authorized to remove the discriminating duties on the vessels and goods of that nation entering into the United States.⁶ Daschkoff now said that as American vessels and their cargoes were admitted into the ports of Russia on the payment of the same tonnage and other duties as were paid by the subjects of Russia, he requested that the goods and vessels of Russia entering the ports of the United States be placed on the same favorable footing under the act of March 3.⁷ Monroe replied, asking him to send him copies of the acts and regulations of his government relating to the subject so that it might be ascertained that they presented a case within the authority given to the executive by that act.⁸ But this negotiation went no further, as an accident arose preventing further advances.

Towards the last of November, 1815, Kosloff, the Russian consul-general at Philadelphia, was arrested and thrown into prison on the charge of having committed a rape on a girl of twelve years, who was employed as a servant in his family. The oath was made by the individual alleged to be injured. The penal code of Philadelphia did not allow the magistrate to take bail in such a case. He accordingly committed Kosloff to jail. As Kosloff had been brought before the magistrate at a late hour of the night, he was prevented from having a second examination before a higher

⁶ U. S. Statutes at Large, vol. 3, p. 224. 13th Cong., 3d Sess., 1815, chap. 77.

⁷ A. Daschkoff to J. Monroe. May 6, 1815. Russian Legation, vol. 1. MS., State Department Archives.

⁸ J. Monroe to A. Daschkoff. July 14, 1815. Notes to Legations, vol. 2. MS., State Department Archives.

magistrate until the next day. The next day a writ of habeas corpus was sued for before the chief justice of Pennsylvania to procure his release. In as short a time as possible a hearing took place before the chief justice, who said that the evidence before him was not in itself sufficient to convict the accused, but as the oath of the prosecutrix was positive it was his duty to bind over Kosloff with one security to appear at the next court of oyer and terminer and stand trial before a jury.⁹

Daschkoff, who resided in Philadelphia, at once wrote to Secretary Monroe, protesting against Kosloff's arrest as a breach of international law likely to lead to consequences prejudicial to the interests of the two countries.¹⁰ Two days later he issued a circular to all the foreign ministers resident in the United States, informing them of this event as an abuse of the laws of the United States and as a breach in the law of nations.¹¹

This letter of Daschkoff's was not answered by the American government because it was considered that to enter into a discussion on that subject would be to show that the government approved of the arrest.¹² But he was informed that at the instance of the President the United States district attorney for Pennsylvania would be instructed to attend to Kosloff's case "and to see that all the rights which belonged to his character as consul-general by the law of nations should be secured to him."¹³

As an indictment for rape had been found against Kosloff by the grand jury, the case came up for trial in 1816. A

⁹ J. Monroe to L. Harris. July 31, 1816. Instructions, vol. 8. MS., State Department Archives.

¹⁰ A. Daschkoff to J. Monroe. Nov. 28, 1815. Russian Legation, vol. 1. MS., State Department Archives.

¹¹ L. Harris to J. Monroe. March 8 (20), 1816. Despatches, Russia, vol. 5, no. 11, inclosure. This copy sent by Harris was the first the American government knew of such a circular being issued. J. Monroe to Wm. Pinkney. Nov. 12, 1816. Instructions, vol. 8. MSS., State Department Archives.

¹² J. Monroe to Wm. Pinkney. Nov. 12, 1816. Ibid.

¹³ J. Monroe to A. Daschkoff. Feb. 3, 1816. Notes to Legations, vol. 2. MS., State Department Archives.

motion was then made by the defense to dismiss the case on the grounds (1) that the privilege of immunity from criminal prosecution was conferred on consuls by the law of nations, (2) that by the Constitution and laws of the United States exclusive jurisdiction in all cases affecting consuls was vested in the courts of the United States. By the unanimous opinion of the two judges upon the bench this motion was granted on the second of these grounds.¹⁴ As rape is an offense of the common law over which the federal courts did not have cognizance, all further proceedings in the case necessarily ceased.¹⁵

But Daschkoff did not let the affair drop. He now claimed that Kosloff should have an opportunity to clear his character, and to do so he desired that the case be carried before a federal court.¹⁶ This demand was wholly inconsistent with his former one of the privilege of immunity. The American government refused, saying that the Attorney-General, having been asked to give his opinion, had stated that as no act of Congress touched the offense in question, therefore there could be no trial by any tribunal under the federal government. It was pointed out to Daschkoff that Kosloff had an opportunity of clearing himself by prosecuting the party at whose instance he had been arrested, but that he had declined to do so. It was also remarked that had Kosloff not set up his plea of jurisdiction he would have had an opportunity to vindicate himself in the state court.¹⁷

Daschkoff now took a new course. The arrest and imprisonment of the consul-general was a breach of international law, he claimed, for which the executive of the United

¹⁴ For the opinion of the court, *Niles Weekly Register*, vol. 12, pp. 139-142.

¹⁵ J. Monroe to L. Harris. July 31, 1816. Instructions, vol. 8 MS., State Department Archives.

¹⁶ A. Daschkoff to J. Monroe. March 4, 1816. Russian Legation. vol. 1. MS., State Department Archives.

¹⁷ J. Monroe to A. Daschkoff. Aug. 16, 1816; J. Monroe to Count Nesselrode. Sept. 12, 1816. Notes to Legations, vol. 2. MSS., State Department Archives.

States was responsible. On August 23, 1816, he wrote to the secretary of state and demanded reparation.¹⁸

On account of Daschkoff's hostile attitude to the American government, the President considered that the only way to settle this affair was to transfer all further discussion on the subject to St. Petersburg. Daschkoff's letters had been so full of bitter invective against the government that the President determined not to answer this last note of Daschkoff's but to send a reply directly to Count Nesselrode.¹⁹ On September 12, 1816, Monroe wrote to Nesselrode a letter in which he stated the position of the American government, its regret at the affair, the steps it had taken to aid Kosloff at his trial, and the inability of the executive to stop the trial, even supposing the consul-general to be protected by the law of nations.²⁰ This letter Monroe sent to Daschkoff and requested him to forward it to his government.²¹

But Daschkoff, who desired to extricate the consul-general with honor from the affair and to win *éclat* by obtaining some concession from the American government, returned Monroe's letter to Nesselrode, stating that he considered it improper for him to transmit it to his government.²² Monroe answered that he would then despatch the letter to St. Petersburg by a special messenger.²³

On October 31, 1816, Daschkoff wrote to the secretary of state, breaking off diplomatic relations with the United States. He said that when the Emperor had learned of the outrage to which his consul-general had been subjected he

¹⁸ A. Daschkoff to J. Monroe. Aug. 23, 1816. Russian Legation, vol. 1. MS., State Department Archives.

¹⁹ J. Monroe to Wm. Pinkney. Nov. 12, 1816. Instructions, vol. 8. MS., State Department Archives.

²⁰ J. Monroe to Count Nesselrode. Sept. 12, 1816. Notes to Legations, vol. 2. MS., State Department Archives.

²¹ J. Monroe to A. Daschkoff. Sept. 12, 1816. Ibid.

²² J. Monroe to L. Harris. Sept. 30, 1816. Instructions, vol. 8; J. Monroe to Wm. Pinkney. Nov. 12, 1816. Ib.; A. Daschkoff to J. Monroe, Sept. 23, 1816. Russian Legation, vol. 1. MSS., State Department Archives.

²³ J. Monroe to A. Daschkoff. Oct. 3, 1816. Notes to Legations, vol. 2. MS., State Department Archives.

had considered that he owed it to his dignity not to receive Harris at his court until the affair had been settled in a complete and satisfactory manner. At the same time the Emperor had prescribed a line of conduct which he (Daschkoff) was to follow in case the American government would not pursue the most equitable principles towards Russia. Now, wrote Daschkoff, as the refusal of the government of the United States to give a just reparation such as the Emperor of Russia had a right to expect and as all its subsequent conduct showed that the American government did not wish to be bound by the law of nations, he, in accordance with the orders of his august master, was going to leave the country where the Imperial agents were unable to obtain the treatment due to those of a sovereign of the first rank, and where the Emperor believed it contrary to his dignity to keep any longer a legation.²⁴

To the American government it had not appeared possible that any serious consequences would develop from the Kosloff affair. On December 23, 1815, Monroe in his despatch to Harris sent a copy of the Kosloff proceedings as far as they had then gone and instructed him to assure the Russian government that the rights founded upon the law of nations would in all instances be faithfully observed. So far, indeed, was Monroe from fearing any disagreeable results from the Kosloff episode that he instructed Harris to procure from the Russian ministry the removal of the Russian consul at Boston, who had attempted to conceal and protect from confiscation (on the ground that they belonged to him) British goods captured as prizes in the late war, and whose conduct had also been in many instances disrespectful to the American government.²⁵ Moreover, on February 28,

²⁴ A. Daschkoff to J. Monroe. Oct. 31, 1816. Russian Legation, vol. 1. MS., State Department Archives. Daschkoff did not, however, leave the United States.

²⁵ J. Monroe to J. Q. Adams. April 26, 1813; same to same. April 27, 1813. Instructions, vol. 7. MSS., State Department Archives; J. Monroe to L. Harris. Dec. 23, 1815. Instructions, vol. 8. MS., State Department Archives.

1816, the President nominated William Pinkney of Maryland to be envoy extraordinary and minister plenipotentiary to Russia.²⁶

Before proceeding to St. Petersburg Pinkney was to negotiate with the Neapolitan government for indemnities for spoliations committed on American commerce.²⁷ He was ordered to terminate his business at Naples as soon as possible and to proceed immediately to St. Petersburg, as it was considered very important that the United States should be represented there by a minister of the highest grade employed by them.²⁸ But this haste was due to the fact that the United States had delayed so long in sending a minister to Russia, and Pinkney was instructed to explain on his arrival there the causes of this delay. The Kosloff affair as yet appeared very insignificant to Monroe, for he said in Pinkney's instructions that "in looking forward even to a distant period the only circumstance in which a difference of interest is anticipated between the United States and Russia relates to their respective claims on the Pacific Ocean," and that it would be satisfactory to the United States to adopt parallel forty-nine degrees, north latitude, as the boundary between them on the Pacific coast.²⁹

The continuance of the friendly relations with Russia was one of the foundations of the American policy at that period. In his despatch to Harris announcing Pinkney's appointment Monroe said that the President attached great importance to the preservation of a perfectly good understanding with Russia, for the commerce between the two nations was 'active and increasing' and deserved every degree of encouragement which could be given it, especially as it was understood to be agreeable to the views of the Emperor to en-

²⁶ Senate Executive Journal, vol. 3, pp. 32. This nomination the Senate confirmed on March 7, 1816. *Ib.*, p. 35.

²⁷ Messages and Papers of the Presidents, vol. 1, p. 572.

²⁸ J. Monroe to Wm. Pinkney. May 11, 1816. *Annals of Congress*, 15th Cong., 1st Sess., 1818, vol. 2, p. 1850.

²⁹ J. Monroe to Wm. Pinkney. May 10, 1816. Instructions, vol. 8. MS., State Department Archives.

courage it. From the Emperor's policy in that and other respects much advantage was anticipated through the continuance of a very friendly understanding with him.⁸⁰

In July Monroe received a despatch from Harris announcing that Count Nesselrode had informed him of Kosloff's arrest and imprisonment, and as a consequence that the Emperor had requested that he would not appear at court until reparation had been made by his government. Harris said that as he had had no news of this affair he had tried to excuse the matter by saying that Kosloff's arrest was probably by a state government or an ignorant official.⁸¹

Immediately Monroe sent Harris a full account of the Kosloff affair and the position taken by the American government, in order that Harris might place the affair before the Russian ministry in its proper light. In this despatch Harris was distinctly informed that the American government held that a consul was not exempt from the laws of the country in which he resided.⁸² This despatch was borne by a public messenger or board an American sloop of war.⁸³

Shortly after Nesselrode had informed Harris that he was not to appear at court until the Kosloff affair had been settled, Harris drew up a memoir showing how the affair might be excused. This he presented to Nesselrode and asked him to read it, saying that if it contained anything offensive to him he would change it. In reading it Nesselrode became very angry, and with a great deal of temper told Harris that the terms and tone of the note were objectionable, and that anything written on his part which did not contain a reparation of the wrong complained of would only add to the

⁸⁰ J. Monroe to L. Harris. May 21, 1816. *Ibid.*

⁸¹ L. Harris to J. Monroe. March 8 (20), 1816. Despatches, Russia, vol. 5, no. 11. MS., State Department Archives.

⁸² J. Monroe to L. Harris. July 31, 1816. Instructions, vol. 8. MS., State Department Archives.

⁸³ L. Harris to J. Monroe. Sept. 2 (14), 1816. Despatches, Russia, vol. 5, no. 21; L. Harris to Wm. Pinkney. Sept. 28 (Oct. 10), 1816. Despatches, Russia, vol. 5. MSS., State Department Archives.

irritation already produced, and he advised him to avoid any communication on the matter which was not expressly ordered by the government of the United States.³⁴

Great surprise was occasioned in the official circles of St. Petersburg by Harris's exclusion from court. Some of the members of the diplomatic corps desired to express to the ministry their disapproval of such a proceeding, but Harris would not permit them. Although he had not as yet received a line from Monroe on the Kosloff affair, Harris went to see Count Capodistrias, who shared with Nesselrode the management of the Russian foreign office, and after declaring that consuls were subject to the laws of the nations in which they resided, that no representative character was attached to them, and that their sovereigns could not be affected by their acts, he then demanded to be restored to his place in the diplomatic circle. The Count replied that he agreed to a certain extent with Harris's view about consuls, but that the Emperor's anger had been excited by Kosloff's having been arrested and thrown into prison without a trial, and that the Emperor could not revoke the order of exclusion without passing censure upon his own conduct, especially as Harris had received nothing official from his government. Shortly afterwards Harris had an interview with Nesselrode, who informed him that the Emperor had decided not to allow him to return to court until something official had come from the government of the United States. At another interview Nesselrode, after repeating his expressions of the Emperor's friendly disposition towards the United States, said that the silence of the American government to Daschkoff's claims for reparation for the wrong done the consul-general had occasioned some surprise, and that the Emperor had made up his mind as to the steps he would take in the matter, and that the continuance of a diplomatic mission from the Im-

³⁴ L. Harris to J. Monroe. March 17 (29), 1816. Despatches, Russia, vol. 5, no. 12. MS., State Department Archives.

perial court to the United States would depend solely upon the conduct of the American government.⁸⁵

Monroe's despatch of December 23, 1815, was not received by Harris until June 3, 1816. Glad of the opportunity to make official complaint of the Russian agents in America, Harris at once communicated officially and without reserve to the Russian ministry all the facts relative to the conduct of the Russian consul at Boston, and while he did not expressly desire his removal, his note left no other alternative to the Russian government.⁸⁶ To this Nesselrode replied that the Emperor would accord the satisfaction which the American government justly claimed.⁸⁷

The question which troubled the Russian ministry was what kind of reparation was due to the offended dignity of the Emperor for the arrest of his consul. Finally it was suggested to Harris that the proper means would be an official communication from the secretary of state either to Count Nesselrode directly or to Daschkoff, or a letter from the President to the Emperor which should contain the expression of the President's regret at the occurrence at Philadelphia and his sorrow or displeasure at the treatment by the police of that city of the Emperor's agent. In transmitting this intimation to Monroe Harris wrote that such an explanation would end the affair, and he had reason to believe that the present Russian agents in the United States would then all be removed.⁸⁸

Upon the receipt of Monroe's despatch of May 21, 1816, announcing Pinkney's appointment, Harris at once informed Capodistrias of it, and the Kosloff affair was again dis-

⁸⁵ L. Harris to J. Monroe. May 19 (31), 1816. Despatches, Russia, vol. 5, no. 13. MS., State Department Archives.

⁸⁶ L. Harris to J. Monroe. May 27 (June 8), 1816. Despatches, Russia, vol. 5, no. 14. MS., State Department Archives.

⁸⁷ L. Harris to J. Monroe. May 31 (June 12), 1816. Despatches, Russia, vol. 5, no. 15. MS., State Department Archives.

⁸⁸ L. Harris to J. Monroe. June 7 (16), 1816. Despatches, Russia, vol. 5, no. 16. MS., State Department Archives.

cussed. The minister expressed his regret at not being able to arrange the matter, but said that the Emperor thought it proper not to receive Harris at court until due explanation of the conduct of the magistrate at Philadelphia had been received, and that if it was proven that there had been no wrong committed, he would make any concession the American government might in such a case claim. The Count then hinted again how the affair might be closed. He said that the punishment of the magistrate would give the Emperor great satisfaction, but he did not make it a condition in the arrangement of the affair. And then, as if considering that some concession was due to the United States, he added that the Emperor had not been well served and that after the termination of the affair he would send new agents there in order to maintain permanently the friendly relations between the two countries.

That this unfortunate consequence of the Kosloff affair was to be of short duration and of little importance was shown by Capodistrias's further communication at this interview. The Count said that he was preparing a communication to make to Harris, which he would have made before had it not been for Daschkoff's despatches on the Kosloff affair. This communication was relative to the Holy Alliance, "with a view to knowing the sentiments of the American government on the subject of it. That if the United States chose to yield their assent to this treaty the Emperor would receive it with deference. That notwithstanding many opinions had gone abroad on the subject of this league, and the motives which led to it had met with severe animadversion, it was not the less a solemn pact founded to preserve the peace of Europe, and that while Russia continued to hold her present power this peace would not be troubled." Harris replied that as Pinkney would soon be there and he would be better informed of the disposition of the government of the United States, he therefore requested

that this communication be put off until his arrival. This Capodistrias agreed to do.³⁹

As soon as Harris learned of Pinkney's appointment he wrote to him giving him an account of how the Kosloff affair stood at St. Petersburg, and urged him to come as soon as possible to his post there, in order that the affair might be settled.⁴⁰ Pinkney replied from Naples, saying that as he had no instructions to deal with the Kosloff affair, he considered it improper to appear at the Russian court as minister of the United States until he knew with certainty that the difficulty had wholly ceased, or until he had received such instructions as would enable him to remove it or would make it his duty to encounter it. He therefore proposed to send to Harris, by his secretary, all the papers which he had dealing with the affair, and said that when his business at Naples was finished he would follow as far as Berlin and there await developments.⁴¹

Monroe's letter of July 31, 1816, carried by the American sloop of war, arrived in Russia early in October. Harris immediately presented Nesselrode with a note giving a full account of the Kosloff affair and the position taken by the American government.⁴²

This note the Russian government seized upon as opening a way to a settlement of the affair without humiliating the Emperor by rescinding his hasty action. Harris's letter embodied official information from his government, and Capodistrias now told him that there was reason to hope that the affair would be terminated amicably. He said that the Emperor had read attentively Harris's recent notes and the documents which had accompanied them, and that while he would have preferred to wait for further reports from

³⁹ L. Harris to J. Monroe. July 24 (Aug. 5), 1816. Despatches, Russia, vol. 5, no. 19. MS., State Department Archives.

⁴⁰ L. Harris to Wm. Pinkney. July 18 (30), 1816. Despatches, Russia, vol. 5, no. 19, inclosure. MS., State Department Archives.

⁴¹ Wm. Pinkney to L. Harris. Sept. 17, 1816. Despatches, Russia, vol. 6. MS., State Department Archives.

⁴² L. Harris to J. Monroe. Oct. 1 (12), 1816. Despatches, Russia, vol. 5, no. 22. MS., State Department Archives.

Daschkoff on the matter, as it was a principle of his never to condemn his agents without a hearing, nevertheless he had instructed him (Capodistrias) to negotiate with Harris a final settlement of the matter. Therefore, in order to carry out the Emperor's orders, the Count said he would send Harris the form of a note to be written by him together with the reply to it from the ministry, which had been prepared in accordance with the Imperial commands, so that an understanding having taken place between them by means of this correspondence, Harris would be immediately restored to his place at court. Harris expressed his regret that any further correspondence was necessary, and said that he thought that in the notes which he had written the conduct of Kosloff appeared so reprehensible that the Emperor would at once acknowledge that no wrong had been done to the honor of Russia. The Count answered that what he had to propose would be founded largely on Harris's last communications, yet in the proposed settlement it was thought proper to add something to meet the views and soothe the feelings of the Emperor. The projects of the final notes would, he said, be sent to Harris the next day, and after Harris had given assent to them they would go again before the Emperor, whose ultimate decision would regulate the close of the affair.

On the next evening, November 5, 1816, the Count sent the projects by his secretary, who was instructed to read them over with Harris and note any remarks which he might make about them. This course Harris objected to, and requested that the projects might be left with him so that he could return them in a few hours with such remarks and changes as he might consider that they required. As the secretary had not been empowered to grant such a request he returned to his chief, who at once authorized him to leave the papers with Harris until the next morning.⁴³

⁴³L. Harris to J. Monroe. Oct. 31 (Nov. 12), 1816. Despatches, Russia, vol. 5, no. 23. MS., State Department Archives.

These papers consisted of forms of a letter which Harris was to write to the Russian ministry and their reply. According to the project for Harris's letter, he was to state, after declaring the regret of the President at the Kosloff affair, that "it is a fact that if the affair in which the consul-general Kosloff has been involved had been carried before the federal authorities in accordance with the law, it would have taken from the beginning a course more in conformity with the respect which the American government has hastened to testify on this occasion to his Majesty the Emperor of all the Russias." But as if some concession was necessary in order that Harris should agree to it, the project further stated that the consequences arising from this unfortunate affair were partly due to the distance of Daschkoff from the seat of the American government and his unfriendly attitude toward it.⁴⁴

On reading this project Harris was surprised to see that the principles of consular immunities, which he had thought long ago abandoned by the Russian government, were again brought forward. In despair of a successful outcome, he drafted a counter-project by which he hoped to relieve the Emperor of the embarrassment in which he had involved himself, for he now considered that to be the only source of difficulty between the two parties, yet at the same time he endeavored to maintain the correctness of the proceedings of the American government and its doctrine of consular immunities. In his counter-project Harris declared that the course pursued by the American government was the legal and proper one and that none other could or ought to have been taken. He stated: "Greatly deploring the steps taken both by the party and by Mr. Kosloff before a tribunal to which are subject all those who are not personally under the direct protection of the public law, the American government hastened to order the interposition of its attorney for

⁴⁴ "Projet d'une note de la part du ministère au chargé d'affaires des États-Unis. Oct. 28 (Nov. 5), 1816. Despatches, Russia, vol. 5, no. 23, inclosure 2. MS., State Department Archives.

the state of Pennsylvania in order that the consul of his Imperial Majesty should enjoy all the advantages which it was in the power of the government to procure for him." This Harris considered to be a positive assertion that Kosloff's offense was within the cognizance of the lower court and to explain the motive for the intervention in his behalf.⁴⁵

On the following morning Capodistrias's secretary, acting under the Count's commission, again called upon Harris, and together they read over the two projects. The secretary immediately protested against Harris's changes on the ground that they went to prove the culpability of Kosloff and that that was a point still at issue. Harris replied that it ought no longer to be considered so, for there appeared to him no other mode of coming to an arrangement but by some concession on this point and by yielding entirely the pretension with regard to consular jurisdiction, which he was surprised to see defended in the project. Such a thing, he said, as a code of consular rights was unknown to American jurisprudence, that the American government had already displayed remarkable deference to the Emperor in this transaction, and that nothing more should be required, for it certainly would not be conceded.

On the following day Capodistrias wrote to Harris announcing the acceptance of his counter-project. Harris then called upon the Count and the two notes were exchanged November 8, 1816.⁴⁶ Thus terminated the affair in a complete victory for the United States. It was the first time that a diplomatic negotiation had been carried through be-

⁴⁵ L. Harris to J. Monroe. Oct. 31 (Nov. 12), 1816. Despatches, Russia, vol. 5, no. 23; *Projet d'une note par le chargé d'affaires et agréé par le ministère*. Despatches, Russia, vol. 5, no. 23, inclosure 3. MSS., State Department Archives.

⁴⁶ L. Harris to J. Monroe. Oct. 31 (Nov. 12), 1816. Despatches, Russia, vol. 5, no. 23. It was not until Oct. 3, 1817, that Daschkoff, writing from Philadelphia, announced to the secretary of state the restoration of diplomatic intercourse between the Russian government and the American *chargé* at St. Petersburg. A. Daschkoff to J. Q. Adams. Oct. 3, 1817. Russian Legation, vol. 1. MSS., State Department Archives.

tween the two countries. The fault had been wholly Russia's. The Emperor had recently adopted a policy hostile to democracy when Daschkoff's violent despatches, containing only the early stages of the Kosloff affair, arrived. Filled with the plans of the Holy Alliance, the Emperor considered that his honor had been attacked and suspended Harris from court. At another time and with another nation such actions as those of the Russian government and of its accredited representative the United States would have considered as a cause of war. But as the war with Great Britain had scarcely terminated the American government could not plunge the country into another conflict. Nevertheless it was determined to maintain firmly the rights of the United States. Anxious as the rulers were to maintain their friendly relations with Russia, they refused to make any concession. Their position in the Kosloff affair was unassailable in international law. This became apparent to the Russian government when the whole of the Kosloff affair was known. An effort was made to save the pride of the Emperor, but even in the very last step Russia yielded in accepting the counter-project of the American *chargé*.

In the settlement of this affair Capodistrias was the moving spirit, although Nesselrode signed the formal notes, as he was the senior secretary. Capodistrias assured Harris that the Emperor would recall his present agents in America and that he was taking steps in the selection of new ones. Still another concession was made to the United States. Capodistrias promised that hereafter the Russian minister in the United States would be compelled to fix his residence at the seat of the American government.⁴⁷

⁴⁷ L. Harris to J. Monroe. Oct. 31 (Nov. 12), 1816. Despatches, Russia, vol. 5, no. 23; same to same. Oct. 31 (Nov. 12), 1816. Despatches, Russia, vol. 5, private. To Daschkoff's absence from the seat of government a large portion of the blame for the Kosloff affair was ascribed by the American government. As a result the American government issued a circular letter compelling the residence of foreign ministers at Washington. Instructions, vol. 8. MSS., State Department Archives.

It was not until December that Monroe's letter to Nesselrode, dated September 12, 1816, which Daschkoff had refused to send, arrived. Harris presented it to Nesselrode with a complaint about Daschkoff's conduct.⁴⁸ Had this letter arrived earlier it would doubtless have been considered as fulfilling the Russian demand for reparation. But it came too late for that; the affair had been settled and Harris was restored to his place at court.

The difficulty with the Russian government having been removed, Pinkney arrived in St. Petersburg on January 7, 1817. In arranging for his presentation Harris renewed to Capodistrias the complaints of the American government against Daschkoff. The Count tried to excuse Daschkoff's conduct in regard to Monroe's letter to Nesselrode by saying that it had been sent to him sealed. Harris replied that Daschkoff had made himself so generally objectionable that the American government could no longer continue its intercourse with him. The Count answered that Daschkoff was soon to be recalled and that the Emperor was then engaged in selecting his successor.⁴⁹

⁴⁸ L. Harris to J. Monroe. Dec. 14 (26), 1816. Despatches, Russia, vol. 5, no. 24. MS., State Department Archives.

⁴⁹ L. Harris to J. Monroe. Dec. 27 (Jan. 8), 1816 (17). Despatches, Russia, vol. 5, no. 27. MS., State Department Archives.

CHAPTER VI.

PINKNEY'S MISSION.

William Pinkney of Maryland, the new minister to Russia, was a diplomat of considerable experience, having been minister to Great Britain for about five years just previous to the outbreak of the war of 1812. After his experience in England Pinkney did not wish to be dragged into another situation which might involve his country in a war. Fearing that his reception might be such as would widen the breach between the two countries, he decided not to go at once to his post but sent his secretary, William R. King, with all the papers which he had bearing on the Kosloff affair, in the hope that Harris might be able to use them in restoring to their former footing the relations between the two countries. When King arrived at the Russian capital he found that the difficulty had been amicably settled. Thereupon Pinkney proceeded to St. Petersburg.¹

Nothing could have exceeded the cordiality of Pinkney's reception by Nesselrode and Capodistrias, and when he presented to them Monroe's circular in respect to foreign ministers residing away from the seat of government (which Daschkoff's action had brought out), Capodistrias gave him to understand that the recall of the Russian minister in the United States would not be long delayed.² But it was the warmth of the Emperor's reception which impressed Pinkney and caused a great deal of comment in court circles. His first audience with the Emperor was on New Year's day, when his Majesty expressed in the strongest terms his regard for the United States. At the ball that night the

¹ Wm. R. King to J. Monroe. Jan. 29, 1817. Despatches, Russia, vol. 6. MS., State Department Archives.

² Wm. Pinkney to J. Monroe. Jan. 28 (N. S.), 1817. Despatches, Russia, vol. 6. MS., State Department Archives.

American minister was summoned to the royal circle, where the Empress talked with him for twenty minutes in the presence of eighteen or twenty thousand people, that being the first time a minister of the second class had ever been admitted to the Imperial circle.³

A new era had begun in the relations between the United States and Russia. With the end of the war of 1812 the United States were no longer a suppliant nation, Russia no longer assumed a patronizing attitude. What was the cause of this change? of Russia's hint that she desired to see the United States a member of the Holy Alliance? of her speedy withdrawal from her untenable position assumed with regard to the Kosloff affair? of her conciliatory readiness to recall both her minister and consuls in the United States? of her flattering reception to the new American minister? The answer is to be found in the politics of Europe of that time. In almost every direction Russian policy was thwarted by Great Britain. Russia desired to overthrow the Turkish Empire; England and Austria opposed her. Russia intrigued to procure the island of Minorca; England frustrated her plans. Russia proposed that the Holy Alliance should attack and occupy Portugal; England opposed this likewise. Russia instigated Ferdinand VII. of Spain to request the aid of the Holy Alliance against his revolted colonies in South America; England successfully opposed this too.⁴ The Czar hoped to create a counterpoise to England's maritime power by favoring some other nation.⁵ The war of 1812 had shown that the United States would soon rival Great Britain upon the seas. Trusting in the bitterness caused by this war, the Emperor hoped to secure the United States as his allies and to use them against Great Britain. His policy was very obvious. William R. King, the new secretary of legation, wrote to his govern-

³ *Ib.*; L. Harris to J. Monroe. Jan. 7/19, 1817. Despatches, Russia, vol. 5, no. 26. MS., State Department Archives.

⁴ Debidour, *Histoire Diplomatique de l'Europe*, t. 1, pp. 101-110.

⁵ Fyffe, *History of Modern Europe*, vol. 2, p. 81.

ment that English trade with Russia had decreased while that of the United States had increased; that England was jealous of the Czar's military preparations and was ready to block his plans, but as the United States were growing in importance as a naval power the Emperor was favoring them because it was thought that they were likely in the near future to become a rival of England's, and because at the same time from their commercial products they were likely to be beneficial to Russia.⁶

It was February before Pinkney received Monroe's despatch of November 12, 1816, informing him that Daschkoff had broken off relations with the American government. He immediately informed Nesselrode, who declared that he knew nothing about it. Pinkney then entered into an explanation of the position of the United States. He hinted that Daschkoff should be recalled, saying that although Daschkoff had not rendered himself agreeable to the President, the President had no wish for him to lay aside his character as minister as long as the Emperor thought fit to keep him in it. This hint the Count received in a very friendly manner, and officially declared that the Emperor had determined to recall Daschkoff and was now selecting a successor who should be agreeable to the President; that Daschkoff had committed an error in residing away from Washington and thus preventing verbal explanations, and that the Kosloff affair had made no disagreeable impression on the Emperor, who was much disposed to cultivate very friendly relations with America.⁷ It was not, however, until May that Nesselrode informed Pinkney by note that Daschkoff had been recalled and that Major-General the Baron de Tuvill had been appointed his successor.⁸

⁶ Wm. R. King to J. Monroe. Jan. 29, 1817. Despatches, Russia, vol. 6. MS., State Department Archives.

⁷ Wm. Pinkney to J. Monroe. Feb. 16, 1817. Despatches, Russia, vol. 6. MS., State Department Archives.

⁸ Same to same. May 31 (June 12), 1817. Despatches, Russia, vol. 6. MS., State Department Archives.

Concerning Baron Tuyll, a Hollander by birth, Pinkney could learn nothing but what was favorable.⁹ He had an interview with the new minister, who pleased him greatly and whom he characterized as "a dextrous diplomat." Evidently the cause of the Emperor's delay in making the appointment was his desire to make a good selection. Tuyll told Pinkney that the Emperor had commanded that his conduct be most conciliatory and that he do everything to secure the good will of the American people; and, he said, in order that he might so shape his conduct he was going to Munich to see Count Pahlen, the former minister to the United States, before leaving for America.¹⁰

Pinkney was the bearer of the President's thanks to the Emperor for his offer of mediation during the war between the United States and Great Britain, and also for the offer of his government to use its influence in behalf of the United States with Algiers. But the chief object of his mission was to be the negotiation of a commercial treaty. In his instructions Monroe informed him that "the United States have been desirous from the first appointment of a minister to St. Petersburg to form a commercial treaty with Russia on equal and reciprocal advantages." Should Pinkney find that the Russian government was similarly disposed he was given power for that purpose. The President was willing to form a treaty with Russia on conditions similar to those which had been lately adopted by the United States in a convention with Great Britain.¹¹ If Pinkney should form such a treaty there was to be in it a definition of neutral rights between the two parties, with the distinct understanding that the reciprocity of the stipulation should in no wise impose any obligation on the neutral party in respect to the

⁹ Wm. Pinkney to J. Q. Adams. June 10 (22), 1817. Despatches, Russia, vol. 6. MS., State Department Archives.

¹⁰ Same to same. June 6 (18), 1817. Despatches, Russia, vol. 6. MS., State Department Archives.

¹¹ For this treaty, signed July 3, 1815, see *Annual Register*, 1816, pp. 383-386.

other, that other being belligerent, but should simply consist in this,—that the right should be common to both, to be taken advantage of by each when a change of circumstances permitted it, to be enjoyed together when at peace or by either alone when the other was at war. It was thought that a very just and liberal definition might be entered into respecting blockade, the freedom of the flag to goods contraband of war, trade with enemies' colonies and between them and the parent country, trade from one port of an enemy to another, and visits at sea to merchant vessels by ships of war.¹²

Upon being informed of the new minister's appointment Pinkney now considered that this was his opportunity for making a commercial treaty. And so in June, 1817, he informed Count Nesselrode that as the government of the United States was disposed to enter into commercial arrangements with Russia with a view of enlarging the intercourse between the two nations, he had brought with him a power to propose and to make a treaty, but he had not presented it before as he had heard that the Emperor did not favor such treaties and had resolved to avoid them. Pinkney said that his reason for now broaching the subject was that the Emperor might make the occasion of his sending a new minister to the United States an opportunity for an approach toward a commercial treaty. To this proposal the Count replied that the Emperor was opposed to treaties of commerce, because he considered that they were less necessary now than formerly, that when unnecessary they were hurtful, that Russia was well off without them, and that being bound to grant to England whatever advantages she accorded to other nations, it was scarcely possible for her to make a treaty that would not be troublesome in some of its bearings. Nevertheless Nesselrode inquired upon what terms the United States wished in particular to negotiate a

¹² J. Monroe to Wm. Pickney. May 10, 1816. Instructions, vol. 8. MS., State Department Archives.

treaty of commerce. Pinkney seeing that nothing was to be accomplished answered briefly in generalities.¹³

President Monroe had appointed John Adams to be his secretary of state. Adams, who was then minister to Great Britain, did not enter upon the duties of his new office until September, 1817, and during the interval Richard Rush, the Attorney-General, directed the department of state. On April 21, 1817, Rush wrote to Pinkney that in his letter of instruction he had been informed among other things that "in adjusting the question of territorial limits with the Russian government upon the north Pacific Ocean, the claims of the United States would be satisfied by accepting the 49th degree of latitude as the boundary upon that Ocean." Now, Rush wrote, the President had some reason for believing that the Russian government would be satisfied with the fifty-fifth degree latitude as the boundary, and that Pinkney was to make proper use of that fact in case it should reach him in time.¹⁴

After Pinkney had received this note he spoke to Nesselrode about the limits of the Russian territory on the north-west coast of America. But as he did not go into details the question as to the parallel of latitude was untouched. This was entirely due to Pinkney. For while there appeared to him to be every disposition on the part of the Russian government to arrange the matter with the United States, he thought that the Emperor would like to have the advantages of Baron Tuyll's inquiries in America before anything was done. This disposition Pinkney encouraged, first, because he had no power to conclude a convention, and second, because he believed that it would be better to have the information as to how the arrangement was to be made obtained in the United States, as at that time the Russian government knew nothing of the subject except what in-

¹³ Wm. Pinkney to J. Q. Adams, Jan. 1817. Despatches, Russia, vol. 6. MS., State Dept.

¹⁴ Richard Rush to Pinkney otherwise than as a proposition, vol. 8. MS., State Dept.

formation it obtained from the Russian-American company, most of whose members resided in St. Petersburg.¹⁵ On August 11, 1817, Pinkney wrote to the state department that he thought the adjustment of the limits upon the Pacific coast would take place in Washington. He then sounded the alarm of Russian encroachment in America. He said that the activity of the Russian government in exploring, colonizing, and consolidating its power in that quarter seemed rather to increase than to diminish.¹⁶ In his efforts to have the Russian government transfer the negotiation of the boundary question to Washington Pinkney was successful. About a month later Nesselrode informed him that Tuyll had been given instructions with regard to a treaty of limits.¹⁷

The Kosloff affair, which had come near causing a rupture in the relations between the countries, was a question as to the status of consuls. Scarcely had that matter been satisfactorily settled when there arose an affair in Russia in which an American consul claimed special privileges, rights, and immunities, and in this case, which differed, however, in that it was a quarrel between a consul and a fellow-citizen, both domiciled in the same country, the Russian government followed the decision laid down by the American government in the Kosloff affair.

A young American merchant, W. D. Lewis, residing in St. Petersburg, pulled the nose of J. L. Harris, the American consul at that place, and then slapped his face. This took place upon the Imperial Exchange. The matter was purely a personal one and the quarrel had nothing to do with Harris's consular character. Harris brought his dispute before the chief of police, who referred it to Count Nesselrode, as it was not an application for a civil suit, nor an ordinary

¹⁵ Wm. Pinkney to J. Q. Adams. July 5/17, 1817. Despatches, Russia, vol. 6. MS., State Department Archives.

¹⁶ Same to same. Despatches, Russia, vol. 6. MS., State Department Archives.

¹⁷ Wm. Nesselrode to Wm. Pickney. May 10, 1817. Despatches, Russia, vol. 6. MS., State Department Archives.

appeal to the laws, but, as it appeared to Pinkney, "a sort of official representation founded upon an imaginary consular dignity and prerogatives and looking to an inquiry to be instituted and carried on under the auspices of the Imperial government," with the end in view that Lewis should be punished by being expelled from the country. Nesselrode laid the matter before the Emperor. The Emperor, not wishing to acknowledge so soon that the position of the American government in the Kosloff affair was the right one, declared that Pinkney was the proper person to dispose of this case. When Pinkney was informed of the Emperor's decision he replied that by the laws of the United States he had no power to pass judgment upon the transaction, and that even if he had he would not use it to the prejudice of Lewis without the positive orders of the President, as he thoroughly disapproved of Harris's conduct. Pinkney, however, told Count Nesselrode that he would take a few days to consider what he would do. Even after laying aside his personal prejudices, Pinkney did not see how he could approve of Harris's application without involving himself "in some odious conclusions relating to the status of a consul, conclusions which he had long disapproved of." And so he told the Russian government to hold the case in its present state until the President should be informed of it. In the meanwhile Harris wrote repeatedly to the Russian government urging with increasing zeal his demand that Lewis be punished. Disgusted at Harris's behavior, Nesselrode informed Pinkney that the Emperor had wished at first to refer the quarrel to Pinkney's arbitration, but that his refusal to have anything to do with it and the repetition of Harris's complaints had caused the Emperor to declare that Harris, like all other strangers resident in the Empire, had full liberty to bring the case before competent courts. By this decision the Emperor put an end to Harris's official case and determined that there was no ground for his being regarded in this transaction otherwise than as a private stranger entitled to the municipal justice of the empire, and

that it was proper to refer him at once to such a judicial proceeding as, in that capacity, he could procure.¹⁸

By this decision the Czar acknowledged that the position taken by the United States in the Kosloff affair with regard to consular rights and immunities was the proper one, yet in offering to let Pinkney judge in the case he proposed to establish what might have turned out to be a dangerous precedent. As for Harris's conduct in the matter it was greatly disapproved of by the President.¹⁹

About this time the question of the intervention of the Holy Alliance in South American affairs began to assume importance. Pinkney, as he had been instructed to do, tried to obtain the views of the Emperor upon the struggles of the Spanish colonies in South America, but he found that it was utterly impossible to do so. He wrote to his government that some of the members of the diplomatic corps appeared to credit the idea of Russian interposition in the contest, and that it was his opinion that the Emperor would in some way meddle in it.²⁰ A little later he wrote home that he had heard on very good authority that Lord Cathcart, the British ambassador, had asked the Imperial ministers for an explanation relative to the supposed intention of the Emperor to offer his mediation between Spain and her colonies, and that Nesselrode had replied that there was no truth in such speculations.²¹

It is evident, however, that South America was occupying a prominent place in the counsels of the Czar. Late in November, 1817, it was rumored that Baron Tuyll, whom

¹⁸ Wm. Pinkney to J. Q. Adams. July 20 (Aug. 1), Aug. 3/15, Aug. 16, Aug. 17/29, 1817, and inclosures. Despatches, Russia, vol. 6. MSS., State Department Archives.

¹⁹ Slip of paper, signed J. M. and fastened to the despatch of Wm. Pinkney to J. Q. Adams. July 20 (Aug. 1), 1817. Despatches, Russia, vol. 6; J. Q. Adams to Wm. Pinkney. Dec. 12, 1817. Instructions, vol. 8, no. 1. MSS., State Department Archives.

²⁰ Wm. Pinkney to J. Q. Adams. Sept. 13 (25), 1817. Despatches, Russia, vol. 6. MS., State Department Archives.

²¹ Wm. Pinkney to J. Q. Adams. Sept. 29 (Oct. 11), 1817. Despatches, Russia, vol. 6. MS., State Department Archives.

the Emperor had been so careful to select to send to the United States in order to conciliate the American government after the Kosloff affair, and who had already made his preparations to depart thither, was now to be sent to Brazil, and that Poletica, who could not be compared with him as a diplomat, was to be sent in his stead to the United States.²² Shortly afterwards these rumors were officially confirmed to Pinkney.²³

As early as May 2, 1817, Pinkney had requested to be recalled on account of the health of his family and of himself, and also on account of the expense.²⁴ As the winter advanced Pinkney's health grew worse, and in nearly all of his despatches he requested to be recalled. Therefore the President gave him permission to return home and instructed him, in order that his early departure might not give offense, to inform the Russian government "that his recall was granted solely in consequence of his own solicitations and not from any abatement of the friendly disposition and respect for the Emperor entertained by the government of the United States, and that a successor to him in the legation would be appointed without delay."²⁵ But before he received this recall Pinkney left St. Petersburg, in February, 1818, as the state of his health compelled him to take advantage of the spring to start for the United States, and because even if he had remained there would have been nothing for him to do, as the court was then at Moscow. And so leaving his son, Charles Pinkney, as provisional *chargé d'affaires*, he set out for home, after informing the ministry that he was going on "a permission or leave of absence." Thus Pinkney terminated his mission without

²² Wm. Pinkney to J. Q. Adams. Nov. 28 (Dec. 10), 1817. Despatches, Russia, vol. 6. MS., State Department Archives.

²³ Same to same. Dec. 21, 1817, postscript to same, Dec. 26, 1817. Despatches, Russia, vol. 6. MSS., State Department Archives.

²⁴ Same to same. May 2, 1817. Despatches, Russia, vol. 6. MS., State Department Archives.

²⁵ J. Q. Adams to Wm. Pinkney. Dec. 12, 1817. Instructions, vol. 8, no. 1. MS., State Department Archives.

having accomplished his chief object, the commercial treaty, and yet being greatly impressed by the friendship of the Russian government for the United States, for, as he wrote to Adams, "everything conspires to show that this government respects in a high degree our government and people, and sincerely desires their friendship."²⁸

²⁸ Wm. Pinkney to J. Q. Adams. Feb. 2/14, 1818. Despatches, Russia, vol. 6. Pinkney's recall did not reach St. Petersburg until May, when Charles Pinkney communicated it to the ministry. C. Pinkney to J. Q. Adams. May 13, 1818. Despatches, Russia, vol. 7.

CHAPTER VII.

SPANISH-AMERICAN AFFAIRS.

Beginning with the year 1818 affairs in America seemed likely to involve the United States with some of the leading European powers. Late in 1817 Gaines had seized Amelia Island, while in the spring of 1818 Jackson marched into the Spanish territory of Florida and took possession of St. Marks and Pensacola.¹ In addition there was a growing popular sentiment in the United States, headed by the speaker of the House, Henry Clay, which demanded the recognition, by the government of the United States, of the independence of the South American colonies of Spain which had revolted and declared themselves republics. By what was termed the Holy Alliance the three courts of Russia, Austria, and Prussia considered themselves as the constituted guardians to maintain the peace of Europe and to interfere with all liberal tendencies, since they might endanger the public security.² The Emperor Alexander of Russia took a deep interest in the subjugation of the revolted Spanish colonies and was eager to use the Holy Alliance in reducing them to subjection.³ The American government had reason to be alarmed. Pinkney's despatches from St. Petersburg gave the warning that some sort of mediation was considered by the Russian government. On January 12, 1818, Hyde de Neuville, the French minister at Washington, told Secretary Adams that the Duke de Richelieu had written him that there was a project of a convention about South American affairs on foot in Europe.⁴ Later, on May 1, 1818, Correa, the Portuguese minister, hinted to Adams that the

¹ Schouler, *History of the United States*, vol. 3, pp. 59-65.

² Snow, *Subjects and Topics in American Diplomacy*, pp. 231-239.

³ Fyffe, *Modern Europe*, vol. 2, p. 171; Debidour, *Historie de l'Europe*, t. 1, p. 109.

⁴ J. Q. Adams, *Memoirs*, vol. 4, p. 40.

European Alliance had determined to take the part of Spain against the South Americans, and that Russia was to have some great stronghold on the American continent.⁵ From Erving, the American minister at Madrid, was received a copy of the instructions of the Emperor of Russia to his ministers at the allied courts, in which it was stated that he wished that the revolted colonies be restored to Spain, and that the agreement of the allied powers on this point be published to produce a moral effect on the colonies, with an intimation of the application of force should it be necessary.⁶ If such a policy be carried out it would greatly affect the United States, especially in putting an end to the negotiations, then in progress, for the purchase of Florida from Spain. And yet notwithstanding the fact that the United States would be so vitally concerned, the American government was almost wholly ignorant of the course which the European powers would pursue in regard to Spain's troubles with her American possessions.⁷

Such was the condition of affairs upon Pinkney's retirement. For the mission to St. Petersburg, which might become the center of negotiations of the greatest significance, President Monroe appointed George W. Campbell of Tennessee.⁸

In his instructions to the new minister Secretary Adams clearly stated the light in which the situation was viewed

⁵ *Ib.*, p. 86.

⁶ James Monroe to James Madison. April 28, 1818. Writings of James Monroe, vol. 6, pp. 149-150.

⁷ J. Q. Adams to G. W. Campbell. June 28, 1818. Instructions, vol. 8. MS., State Department Archives.

⁸ J. Q. Adams, *Memoirs*, vol. 4, p. 78. Monroe had first considered Campbell, Gallatin's successor in the treasury and at that time a senator from Tennessee, but as Adams opposed this choice the President offered the mission to William Lowndes, the chairman of the committee of ways and means in the house, who declined it. Adams then withdrew his objection and Monroe offered the place to Campbell, who accepted it. On April 13, 1818, Monroe sent Campbell's name to the Senate as envoy extraordinary and minister plenipotentiary to Russia, and the nomination was confirmed that day. *Ib.*, pp. 76, 77, 78; Senate Executive Journal, vol. 3, p. 133.

by the administration and the policy which was to be followed at this juncture. He wrote Campbell that it was from Russia and Great Britain that trouble was likely to come. He said that the Emperor of Russia sided with Spain against the aggressions of Portugal and, as the restorer of what he called legitimate authority, seemed to have taken the same bias against the revolted colonies. England, on the other hand, was no party to the Holy Alliance, but she was a member, and perhaps the most powerful and effective member, of the European concert. The revolution in South America had opened a new world to the commerce of England which a restoration of Spanish colonial dominion would close against her. Her cabinet had therefore accepted a compromise by which the political supremacy of Spain should be restored, but under which the Spanish colonies were to enjoy commercial freedom with the rest of the world.

Of the correspondence between the European allies on this subject the American government had seen only a memoir of the Russian cabinet, dated November, 1817, the general import of which showed the design of restoring the entire authority of Spain by effecting a compromise between Spain and Portugal, and then, by their coöperation, reducing South America to submission. This isolation of America in the affairs which lay at her very doors must have been keenly and suspiciously felt, for, continued Adams, "It is remarkable that the European allies have hitherto withheld from the government of the United States all their proceedings on this intended mediation between Spain and her colonies." Therefore he instructed Campbell to find out what had been agreed upon at the last conference of sovereigns, and to inform the Russian ministry that the policy of the United States, like that of the European powers, had been neutrality between Spain and her colonies, and that the United States earnestly wished to pursue a course for the future in harmony with that of the allies, "but that we will not participate in, and can not approve of any interposition of the

other powers unless it be to promote the total independence, political and commercial, of the colonies."⁹

To negotiate a treaty of commerce had been a leading feature in the instructions to the previous ministers to Russia. This policy, pursued from the time of Dana, was now to be abandoned. Adams, doubtless having in mind his own two failures, informed Campbell that it appeared from the coolness with which the overtures of the United States for the negotiation of a commercial treaty with Russia had been received on three different occasions that there was a reluctance on the part of the Emperor to enter upon any such negotiations. There was now no inducement, Adams wrote, for the United States to repeat these overtures again, for there were no preferences granted in Russian ports from which Americans were excluded, . . . "and that all the benefits which could be obtained on either side by the most amicable treaty of commerce are in fact enjoyed by their citizens and subjects respectively under the municipal regulations of the two countries. We have therefore no reason to regret the aversion of the Emperor to the shackles of a commercial treaty, as the same disposition which deters him from entering into such engagements with the United States, will guard him from yielding any concession to other nations prejudicial to them."¹⁰

The third topic in Campbell's instructions was the north-west coast of America. The negotiations as to the limits of Russia's claims there were still pending. But Russia was not to be feared in that quarter, Adams seemed to think, for the Emperor Alexander had never shown any desire for a naval power, and this was demonstrated by the sale of his battle ships to Spain, while his preponderance in European politics had given him little leisure to think of a navy, and without a navy commerce and shipping decline.

⁹ J. Q. Adams to G. W. Campbell. June 28, 1818. Instructions, vol. 8. MS., State Department Archives.

¹⁰ J. Q. Adams to G. W. Campbell. June 28, 1818. Instructions, vol. 8. MS., State Department Archives.

"It may be proper to observe attentively the movements of Russia with regard to their settlements on the northwest coast, but they can never form a subject of serious difference or jarring interest between that empire and the United States," wrote Adams. It was with Great Britain that Adams feared that the northwest coast would probably be a cause of trouble for the United States, owing to a settlement made at the mouth of the Columbia River during the war of 1812. He informed Campbell that the English cabinet had proposed that this question and that of the slaves carried away by British officers in the late war be referred to commissioners or, if they could not agree, to some friendly power. In case of some one of the commissioners of the treaty of Ghent disagreeing, the American minister in England had been instructed to propose the Emperor of Russia as umpire. "Under these circumstances not only the views of the Russian government with reference to their own settlements on the northwest coast acquire additional interest, but the whole system of Russian policy, as it bears on her relations with Great Britain, with the European alliance, with Spain and the South American affairs may acquire the most steady and attentive observation, as it may link itself with objects of importance to the interests and welfare of the United States."¹¹

What the congress of the allied sovereigns which was to meet at Aix-la-Chapelle, in November, 1818, would decide with regard to South America, and the extent to which Jackson's seizure of Pensacola might involve the United States, were sources of great uneasiness to Monroe and his cabinet.¹² As was shown in Campbell's instructions England and Russia were considered as the two powers which would control the European alliance. Instructions had already been sent to Rush, the American minister to Great Britain,

¹¹ J. Q. Adams to G. W. Campbell. June 28, 1818. Instructions, vol. 8. MS., State Department Archives.

¹² J. Monroe to A. Jackson. July 19, 1818. Writings of James Monroe, vol. 6, p. 60; J. Q. Adams, Memoirs, vol. 4, pp. 113, 117, 118.

to ascertain the intentions of the European concert should the Spanish South American colonies be recognized by the United States.¹³ And in August Secretary Adams wrote to Campbell, asking him what part he thought the Russian government would take in regard to the dispute between Spain and her colonies, and in what light they would view an acknowledgment of the independence of the colonies by the United States, whether they would consider it as an act of hostility to Spain, and in case Spain should declare war against the United States in consequence, whether Russia would take part in it with her.¹⁴

The information received through Rush was of a reassuring nature. Castlereagh informed him, on July 16, 1818, that no plan with regard to South America had been matured as yet.¹⁵ Shortly afterwards Rush had met Poletica, the newly appointed Russian minister to the United States, who assured him of the friendly dispositions which he should carry to America by command of the Emperor. Rush likewise learned, but not from Poletica, that his instructions related in part to the United States joining the Holy Alliance.¹⁶ In addition, the American ministers at London and at Paris were respectively informed by the premiers of Great Britain and of France that their governments could not well move in the affair of the Spanish colonies without the United States. By this President Monroe understood that the European nations would take no move against them, and so wrote to Jefferson and Madison that "our attitude with the allies in regard to South America is as favorable as it well can be."¹⁷ From Aix-la-Chapelle came the news that the congress had refused to take up the mediation project,

¹³ Snow, *Treaties and Topics in American Diplomacy*, p. 258.

¹⁴ J. Q. Adams to G. W. Campbell. Aug. 20, 1818. Instructions, vol. 8, no. 1. MS., State Department Archives.

¹⁵ Snow, *Treaties and Topics in American Diplomacy*, p. 258.

¹⁶ Rush, *Memoranda of a Residence at the Court of London*, pp. 319-320.

¹⁷ J. Monroe to J. Madison. November 23, 1818. Writings of James Monroe, vol. 6, pp. 83-84.

and upon these grounds Adams told the English minister at Washington that he concluded that it was or would soon be dropped.¹⁸

But the news which came later from Russia was not so favorable. Campbell had arrived in Russia in September, 1818.¹⁹ In reply to Adams's despatch, asking his opinion as to Russia's views on the recognition of the Spanish colonies by the United States, Campbell wrote that the Emperor of Russia would probably view in an unfavorable light an acknowledgment of the independence of the Spanish South American colonies by the American government, that he would be inclined to induce the allied powers to intervene if there was a prospect of success, in order to prevent the establishment of such extensive independent states and the consequent spread of republican principles, but that in case of a war he independently would unite with Spain against the United States.²⁰

After Campbell had had his first interview with the Emperor, he again wrote home that Russia would view in an unfavorable light the recognition by the United States of the independence of the Spanish colonies, and that she would side with Spain in case of a war. This, he said, was his own opinion, as the Imperial ministers did not feel at liberty to speak freely on matters of state, as they had little influence and no power in the management of public affairs.²¹

Although Adams had informed Campbell that the Russian settlements on the northwest coast of America could never "form a subject of serious difference or jarring interest" between Russia and the United States, some news on this subject arrived in Washington about the time of the signing of the Florida treaty which probably increased the uneasi-

¹⁸ J. Q. Adams, *Memoirs*, vol. 4, p. 186.

¹⁹ G. W. Campbell to J. Q. Adams. Sept. 25 (Oct. 7), 1818. Despatches, Russia, vol. 7, no. 1. MS., State Department Archives.

²⁰ G. W. Campbell to J. Q. Adams. Dec. 10/22, 1818. Despatches, Russia, vol. 7, no. 3. MS., State Department Archives.

²¹ Same to same. Feb. 6/18, 1819. Despatches, Russia, vol. 7, no. 5. MS., State Department Archives.

ness as to Russia's American policy. On November 11, 1818, J. H. Prevost, an agent of the state department, wrote to Secretary Adams, from Monterey in California, that until 1816 the settlements of Russia did not reach south of the fifty-fifth degree and were of no importance, although dignified by the title of Russian America. But at the beginning of 1816 two distant establishments had been made, of a different and more imposing character, the first at Atooi, one of the Sandwich Islands, and the other in California, within a few leagues of San Francisco, the most northerly possession of Spain in latitude thirty-seven degrees, fifty-six minutes. It appeared likely, the agent wrote, that Russia would early take possession of the harbor of San Francisco and ultimately of California.²²

How large a place expansion on the American continents occupied in the Russian foreign policy Adams was not able to find out from the Russian minister in the United States. For although Adams had assumed control of the department of state on September 20, 1817, it was not until January 1, 1819, that Daschkoff, the Russian minister, called on him.²³ On January 25 Daschkoff told Adams that he had at last received his letters of recall, but that as his successor, Poletica, was expected to arrive shortly he would not deliver them until Poletica could at the same time deliver his credentials, so that there might not be any interval of time during which his sovereign would not be represented.²⁴

Daschkoff, however, did not wait for Poletica's arrival. On March 6, 1819, he took leave of the President, saying, with great awkwardness and evident mortification, that he was commanded to express the continuance of the friendly sentiments of his sovereign towards the United States, and stating his own high respect for the character and institutions of the American nation, his personal regard for the President,

²² J. H. Prevost to J. Q. Adams. Nov. 11, 1818. *American State Papers, For. Rel.*, vol. 4, pp. 854-855.

²³ J. Q. Adams, *Memoirs*, vol. 4, p. 203.

²⁴ *Ib.*, pp. 231-232.

and his grateful remembrance of the kindness shown him. In view of the uncertainty of Russia's position in regard to affairs in which the United States were so closely concerned, the President gave Daschkoff, who had nearly caused a crisis between the two countries, a very kind dismissal which he little deserved.²⁵

Although Pinkney had been informed of Poletica's appointment in December, 1817, it was not until April, 1819, that the new minister arrived in the United States.²⁶ It seems strange that his arrival should have been so long delayed. True, Russia was not unrepresented in the United States, but it had been so clearly shown to the Russian government that as Daschkoff was *persona non grata* to that of the United States and there was so little intercourse between him and it, Russia was almost the same as not represented, and one of the chief reasons for the appointment of a new minister was to express Russia's disapproval of Daschkoff's conduct. Immediately upon his arrival in Washington Poletica proceeded to cultivate the most intimate relations with the secretary of state.²⁷ He informed Adams that he had no matters with which to trouble the American government, but that he was charged with the most cordial and earnest assurances of the Emperor's regard and friendship for the United States, and that the Emperor was extremely solicitous to be on the best terms with them.²⁸

²⁵ J. Q. Adams, *Memoirs*, vol. 4, pp. 285-286. The President told Daschkoff that the government of the United States wished that he might be received with acceptance by his sovereign and that they would learn with pleasure anything that might contribute to his welfare hereafter. On June 3, 1819, Adams instructed Campbell to inform the Emperor of the President's good will towards Daschkoff, "in order that it may be known that he does not harbor any resentment against him." *Ib.*, J. Q. Adams to G. W. Campbell. June 3, 1819. *Instructions*, vol. 8, no. 3. MS., State Department Archives.

²⁶ P. de Poletica to J. Q. Adams. April 27, 1819. *Russian Legation*, vol. 1. MS., State Department Archives.

²⁷ J. Q. Adams, *Memoirs*, vol. 4, p. 370. Poletica arrived in Washington May 24, 1819.

²⁸ *Ib.*, p. 371.

Poletica at once entered into the question of the relations of the United States and Spain. Two days after his arrival he asked Adams for information to send to his government about the treaty of February 22, 1819, between the United States and Spain, which he considered satisfactory and advantageous to both countries. He said that as he had been instructed to promote to the utmost of his power a friendly arrangement of the differences between the United States and Spain, he wished to be informed about the question of the grants of land in Florida by the king of Spain, upon which there had been an explanation given subsequently to the signature of the treaty. Adams then explained to him the trouble which had arisen with regard to the eighth article of the treaty, declaring that the treaty was highly advantageous to both parties, and that he considered it of especial importance because it tended to confirm the tranquillity of all Europe, as it was impossible that things should remain in the state in which they had been between the United States and Spain. The treaty or a rupture, he said, were the only alternatives, and if a rupture ensued all Europe would be drawn into the quarrel. In this Poletica agreed.²⁹

Two days later Poletica made inquiries of Adams as to the relations of the United States with Great Britain. He wanted to know what explanations had taken place between the American government and that of Great Britain concerning the execution of Arbuthnot and Ambrister. While not favorably prepossessed with Poletica, Adams thought it a good and safe policy to attempt to win him by kindness, and he considered that confidence judiciously and cautiously given was one of the most powerful and efficacious instruments of diplomacy. Adams therefore told Poletica all that had taken place between the American and British governments with regard to the execution of the two Englishmen

²⁹ J. Q. Adams, *Memoirs*, vol. 4, pp. 373-374.

by Jackson, up to the last declaration of Castlereagh to Rush that the British cabinet, after full consideration, had determined to make no complaint to the American government upon the subject. Adams also allowed Poletica to take home to copy one of the original copies of the Florida treaty. In showing the Russian minister this unusual mark of confidence Adams had in view its effect, not only upon Poletica, but still more upon the Emperor. For as the Emperor took such a deep interest in the relations between the United States and Spain, Adams wished to satisfy him of the fairness and justice of the proceedings of the American government, so that if Spain refused the ratification of the treaty the blame would be upon her.³⁰

On the next day Poletica confidentially communicated to Adams that portion of his instructions which related to the affairs of the United States and Spain. According to these instructions Poletica was charged by all means in his power to bring about an amicable adjustment of the differences between those two countries, but no opinion was given of the merits of the controversy. If upon his arrival the American government had not already yielded to the popular demand and recognized the independence of some of the South American colonies, he was to use every effort, with all suitable deference to the American government, to dissuade them from such an act of hostility to Spain, Russia's ally. He was also instructed to use his powers of persuasion to prevent the government of the United States from associating themselves with the European alliance and to urge them to pursue a course of policy in harmony with its wishes, hinting that a contrary course could not be carried into effect, and that the United States, whether willing or not, must follow the policy of combined Europe.

Adams assured Poletica that it was the earnest desire of the American government not to be associated with the

³⁰ J. Q. Adams, *Memoirs*, vol. 4, pp. 376-377.

European alliance but to follow a policy entirely in unison with it, and that they were deeply impressed with the importance of preserving the general tranquillity of the world; but that it was his (Adams's) private opinion that if the king of Spain should decline or delay the ratification of the treaty, Congress would at its next session authorize the occupation of the Floridas, and probably there would be a recognition of at least the government of Buenos Ayres. Adams then related to him what had been done by the American government concerning the South American question, and told Poletica that, while the administration was convinced that Buenos Ayres at least would maintain its independence of Spain, and that sooner or later it would be recognized as an independent power when it had learned that the allies had determined not to use force against the South Americans, the President had concluded that they might also forbear to take an immediate decisive part in their favor.

Poletica answered that he did not agree with Adams as to the ability of Buenos Ayres to maintain her independence. However, he declared in the most positive and solemn manner that the Emperor was utterly averse to all exclusive or partial alliances, that Russia had therefore no special or particularly intimate connection with Spain, and that by the sale of her squadron to Spain she did not intend to side with her in the quarrel with her colonies.²¹

Adams did not put much faith in these avowals of Poletica's. In informing Campbell of this interview he wrote that by the sale of a whole squadron of ships of war and by sending them, during the war, fully armed to the ports of Spain, the Russian government had shown an interest in behalf of Spain which could not be reconciled with a very strict neutrality. It was also understood that at the congress of Aix-la-Chapelle the disposition of Russia against the

²¹ J. Q. Adams, *Memoirs*, vol. 4, pp. 379-381; J. Q. Adams to G. W. Campbell. June 3, 1819. *Instructions*, vol. 8, no. 3. MS., State Department Archives.

and in favor of Spain was more strongly marked of any other of the powers.³²

Adams's inquiries about the relations between the United States and Great Britain had not escaped Adams's notice, and on June 5, 1819, his motive for making these inquiries was plain. On that day Poletica brought up the subject of England's proposal of the right of mutual search for the suppression of the slave trade, and said that it had been approved by the Russian ministers. Upon Adams's express disapproval of Russia's course Poletica replied that he was not disposed to indulge Great Britain in her pretensions upon maritime law, and that even at Vienna Austria had made a jealous alliance with Austria against England whom she considered as the preponderating power in Europe and as having taken the place of France. At Aix-la-Chapelle, he said, England and Austria had drawn even with France into their system, and every day as long as the contest continued the Russian ministers, on arriving at the conference, invariably found England, Austria and Prussia in opposition against them.³³

Great Britain had been successful in opposing Russia's claims with regard to the subjugation of Spain's revolted colonies. While not yet ready to recognize their independence, England did not wish, for commercial reasons, to see them again subjected to Spain. In this affair the United States had a decisive voice and Russia recognized the fact. England aimed, therefore, not only to prevent an understanding between the United States and Great Britain on the American question, but to get the United States to follow her lead in the matter. To accomplish this she relied upon the hostility of the United States towards Great Britain.

Poletica, finding that the Ambrister affair had been amicably settled, endeavored to stir up the old question of Russian encroachment upon maritime rights. But he was

Adams to G. W. Campbell. June 3, 1819. Instructions, vol. 1, MS., State Department Archives.
J. Q. Adams, *Memoirs*, vol. 4, p. 390.

unable to make any impression upon Adams. It was necessary, therefore, to adopt new tactics if the acquiescence of the United States in Russia's American policy was to be secured.

On May 29 Poletica had informed Adams that it was a part of his instructions to dissuade the United States from associating themselves with the European alliance. Finding that the United States were on friendly terms with Great Britain, Russia's rival, and that it was exceedingly probable that they would recognize sooner or later the independence of the revolted colonies of Spain, Russia's ally, Poletica, on June 17, 1819, made a diametrically opposite proposal. He told Adams that the Emperor was earnestly desirous that the United States should accede to the Holy Alliance. He said that he mentioned it now unofficially and confidentially in order that it might be communicated to the President, and that if on consideration of the subject it should be concluded that on account of popular prejudice against this compact it would probably not be agreed to, Adams might in a friendly manner let him know and he would avoid making an official proposal of it. Adams replied that he supposed Poletica knew the reason why Great Britain had declined joining that alliance, and in the United States the executive power was still more restricted than in England. No treaty could be concluded except with the concurrence of two thirds of the members of the Senate, before whom it must be laid. Poletica said that he was perfectly willing that it should be submitted to the Senate, as this compact did not bind the parties to any specific engagement but was a mere pledge of principles. It was a league of peace, he said, and had hitherto preserved a universal peace in Europe. The Emperor wished the United States to become a party to it because in that case, if they had any little points of difference with European powers, with Great Britain for instance, he could interpose his influence in their favor. Adams replied that at all events it would

be desirable to find out what were the dispositions of the members of the Senate before laying the treaty before them. To this reply, which Adams made in order not to commit himself, Poletica agreed.³⁴

To prevent an understanding between the United States and Great Britain, especially an understanding which should recognize the independence of the Spanish-American colonies, was Russia's object. Poletica had skillfully timed his proposal. The Spanish government had now refused to ratify the Florida treaty, thus tying the hands of the American government as far as the South American question was concerned. This delay in the ratification was thought to be due to the influence of Great Britain, while there were also alarming apprehensions in America that Great Britain was desirous of obtaining Cuba.³⁵ On August 3, 1819, Poletica expressed to Adams his regret that he had not arrived in Washington in time to give Forsyth, the new American minister to Spain, a letter to Tatischeff, the Russian minister at Madrid, who had much influence there and who, if for no other reason than his hatred of the English, would use every effort to bring about the ratification of the Florida treaty. He again intimated to Adams the wish that the United States should accede to the Holy Alliance.³⁶ "It was intimated that if any question should arise between the United States and the governments of Europe, the Emperor Alexander, desirous of using his influence in their favor, would have a substantial motive and justification for interposing, if he could regard them as his allies, which, as parties to the Holy Alliance, he would." No direct refusal to this offer was given. It was not considered necessary, as Poletica's instructions were not to make the proposal in form unless with a prospect that it would be successful.³⁷

³⁴ J. Q. Adams, *Memoirs*, vol. 4, p. 394-395.

³⁵ Latané, *Diplomatic Relations of the United States and Spanish America*, pp. 91-93.

³⁶ J. Q. Adams, *Memoirs*, vol. 4, p. 404.

³⁷ J. Q. Adams to H. Middleton. July 5, 1820. *Instructions*, vol. 9. MS., State Department Archives.

Great Britain disavowed having interfered with the ratification of the Florida treaty.³⁸ As an earnest of good faith, the British minister at Madrid asked Forsyth to permit him to obtain the influence of Tatishcheff in clearing up the difficulties which prevented the ratification of the treaty. Forsyth considered that he himself had better see Tatishcheff personally about it. The Russian minister was very friendly, but the Russian policy was most evident when shortly afterwards he informed Forsyth that if he would give assurances that there would be no recognition of the South American governments the treaty would be ratified. Forsyth replied that in that case there would be no ratification.³⁹

In St. Petersburg the critical situation of the relations of the United States with Spain excited no ordinary interest, as it presented the prospect of kindling the flames of a war which might involve consequences difficult at that time to regulate. Considerable anxiety, therefore, prevailed on the part of the Russian government, as well as on that of the official agents of others there, to obtain correct information on that subject.⁴⁰

Count Nesselrode questioned Campbell closely about Spain's action in regard to the Florida treaty. Campbell was very circumspect in his answers. He dwelt only on the subject of the land-grants as the cause of the Spanish king's refusal to ratify. Nesselrode deplored Spain's conduct in this affair and emphasized the importance of preserving peace in the world. He requested Campbell to inform him as soon as he got any information from his government as to what course it was likely to adopt. To Campbell it appeared from Nesselrode's manner, as well as from what he said, that "he felt a degree of chagrin as well as regret at

³⁸ J. Monroe to T. Jefferson. Oct. 5, 1819. Writings of James Monroe, vol. 6, pp. 102-104; G. W. Campbell to J. Q. Adams. Sept. 24 (Oct. 6), 1819. Despatches, Russia, vol. 7, no. 14. MS., State Department Archives.

³⁹ John Forsyth to J. Q. Adams. Aug. 22, 1819. Annals of Congress, 16th Cong., 2d Sess., 1820-1821, p. 1366.

⁴⁰ G. W. Campbell to J. Q. Adams. Nov. 16/28, 1819. Despatches, Russia, vol. 7, no. 17. MS., State Department Archives.

the conduct of Spain on this occasion not unaccompanied with some anxiety for the consequences that may result therefrom."

At this same interview Campbell, doubtless perceiving that there might be some connection between Russia's interest in South America and her expansion on the northern continent, took occasion to inquire how the Russian colonies on the northwest coast of America succeeded, whether they embraced a great extent of the coast and if they were becoming numerous, etc. Now by the Florida treaty the boundary between Spain and the United States on the Pacific coast was defined, and so Nesselrode, while very polite, was not very explicit on the subject of the Russian colonies in that region. He replied by remarking that he believed that the United States had colonies somewhere in that quarter, and that Russia too had some settlements there near the river Columbia, he thought, or perhaps it was farther south in the Gulf of California, respecting which they were then in negotiation with Spain, who had set up some claim to the same territory.⁴¹

In December, 1819, Campbell explained to Nesselrode the policy which the American government proposed to follow with regard to Florida. He told the Count that he had been instructed to inform the Russian government that the United States did not wish nor intend to disturb the peace of Europe, that as a proof of this disposition the President had determined that if the king of Spain should ratify the Florida treaty in time for it to reach Washington before the meeting of Congress in December, 1819, though this would be subsequent to the date therein specified, he would still receive such a ratification. But should this not be done the possession of Pensacola and St. Augustine would be demanded as security for the claims of five millions of dollars due to citizens of the United States, and if peaceable possession of

⁴¹ G. W. Campbell to J. Q. Adams. Oct. 20 (Nov. 1), 1819. Despatches, Russia, vol. 7, no. 16. MS., State Department Archives.

these places was given the further indemnities from Spain arising from her refusal to ratify the treaty would be reserved for future amicable negotiation. And as an additional proof of the friendly disposition of the United States, they would not withdraw their minister at Madrid notwithstanding the non-ratification.⁴²

In America Poletica still persisted in his attempts to win over the American government. On November 17, 1819, he called upon Adams in reference to some despatches which he asked Adams to forward for him. He complained, as he had many times before, that he could send nothing by way of England, because the British government opened all the letters written by Russian ministers which came into its hands. The subject of South American affairs was then brought up. Adams, who had clearly seen that the aim of the Russian minister was to enlist the United States against Great Britain, now undertook to enlighten him on the American policy. He began by informing him that about a year previous a proposition had been made by the American government to that of Great Britain for an acknowledgment, in concert, of the government of Buenos Ayres. Adams then stated the principles upon which it had been made, and said that the only reason why it was not made at the same time to the Emperor was because it was supposed that the proposition would have been neither acceptable nor agreeable to him; and that it was made to Great Britain alone, not for the purpose of a partial concert with her but of a general concert of all the great European powers with the United States. Adams said that if Poletica had been there at the time when the proposal was made to Great Britain he would have discussed it as fully with him as he had done with the French minister. But Daschkoff, the Russian minister at that time, was not in Washington, and the relation in which he stood to the American government was such

⁴² G. W. Campbell to J. Q. Adams. Dec. 10 (22), 1819. Despatches, Russia, vol. 7, no. 18. MS., State Department Archives.

that if he had been he could not have communicated with him freely. Adams and Poletica then had a long discussion upon the propriety and expediency of the recognition of the South American governments in which Adams urged all the reasons in its favor and Poletica all those against it, though he strenuously denied that Russia had any leaning in the case either against the South Americans or in favor of Spain. Adams hinted to him that after a reasonable time, if the great powers of Europe should continue to decline the acknowledgment in concert with the United States, they would perhaps adopt the measure themselves.⁴⁸

Alarmed at the information that the United States looked to Great Britain for an arrangement to settle the South American question, Poletica, on November 24, 1819, read to Adams his private instructions written by Capodistrias. In these instructions it was stated that, as the United States sympathized with the South Americans, it was probable that an alliance might be made between the United States and Portugal in joint league with the South Americans against Spain. It was to be observed that the United States formed no part of the European alliance and that, having a distinct system of policy of their own, they never manifested a desire to become members of the Holy Alliance, without which the Emperor could not have the same motive for taking a particular interest in their relations with the other European powers. In case the United States should enter into a league with Portugal and the South Americans against Spain, the American government might want to know: (1) Whether Russia had any engagement or special alliance with Spain; (2) what the policy of Russia would be in regard to the acknowledgment of the independence of the South American colonies if the projected mediation of the European allies between Spain and the colonies should fail, and (3) whether Russia would take part with Spain in the war, if the United States should acknowledge the independence of

⁴⁸ J. Q. Adams, *Memoirs*, vol. 4, p. 445.

the South Americans and a war between them and Spain should result. To these questions Poletica was instructed to answer :

(1) That Russia had no special engagements of any kind with Spain, and that all special and partial leagues were entirely adverse to the whole system of the Emperor's policy ; (2) that if the mediation of the allies between Spain and her South American colonies should entirely fail, the subsequent course of Russia would be regulated by the course of events ; (3) that as the great and paramount object of the Emperor's anxiety was the maintenance and preservation of the general peace and to secure to the world a long period of the repose which it so much needed, he would see therefore with peculiar concern the breaking out of any quarrel, which from the existing state of Europe there was so much reason to fear would terminate not otherwise than by a general war.

This was very indefinite information as to the Emperor's future policy, but it stated clearly that the intervention of the European allies in Spain's colonial troubles was seriously considered. This paper, Poletica said, he read to Adams in conformity with its spirit and in return for the confidence which Adams had shown him by his late communications, so that Adams could see in it the reason for the Emperor's wish that the United States should become a member of the Holy Alliance.⁴⁴

In spite of Poletica's protestations of the friendship of Russia he had not been able to persuade Adams as to the position of his government. Early in December, 1819, it was proposed to mention in the President's message the friendly interest of Great Britain towards the ratification of the Florida treaty. The President asked Adams what might be said of Russia in that connection. Adams replied that he had nothing positive directly from that government ; Poletica had professed perfectly friendly dispositions and

⁴⁴ J. Q. Adams, *Memoirs*, vol. 4, pp. 446-447.

the Russian ambassador at Paris had done the same, but it was reported that Tatischeff's conduct at Madrid had not been equally friendly. Monroe then asked Adams to ascertain from Poletica whether a paragraph announcing the friendly disposition of Russia in connection with France and England upon the subject of the Florida treaty would be acceptable to the Emperor.⁴⁶ Adams saw Poletica, who told him that there could be no objection. Adams then mentioned to him Tatischeff's conduct at Madrid. Poletica said he was not surprised at that, in fact, he rather suspected that it would be so. He knew Tatischeff very well, and if he had acted in that way it was to be in opposition to everything done by the British ambassador and to strengthen his own influence by displaying zeal for those to whom he was accredited.⁴⁶

Forsyth had threatened to leave Madrid, but it was not Russia's policy to allow a break between the United States and Spain. The Russian *chargé* prevailed upon Forsyth not to depart,⁴⁷ and exerted himself so that the Spanish government pledged that the new minister, lately appointed to the United States, would set out on his mission without delay, with full powers to settle all differences in a manner satisfactory to the parties concerned.⁴⁸

Campbell's communication to Nesselrode, that the United States would probably occupy Pensacola and St. Augustine if the Florida treaty was not ratified, must have disturbed the Russian government. As if in reply to this communication Poletica, about the middle of March, 1820, read to Adams an extract from a despatch of Nesselrode's, dated November 27 (December 9), 1819, in which Nesselrode said that the Emperor charged Poletica to plead the cause of concord and peace with the government at Washington,

⁴⁶ *Ib.*, p. 458.

⁴⁷ *Ib.*, pp. 458-459.

⁴⁸ *Ib.*, vol. 5, p. 24.

⁴⁹ *Messages and Papers of the Presidents*, vol. 2, p. 69; John Forsyth to J. Q. Adams. Madrid, Jan. 3, 1820. *American State Papers*, For. Rel., vol. 4, pp. 674-5.

and to persuade them to deal patiently with the Spanish ministry. The Emperor, however, wanted it understood that he did not interfere in this affair, that he made above all no pretension to exercise any influence in the councils of a foreign nation, but that he was prompted only by his concern for the general welfare. Poletica also showed Adams extracts from private letters from Capodistrias and Pozzo di Borgo to him, expressing the same sentiments and earnestly urging him to prevent the United States from taking measures of "self-ratification."⁴⁹

It was apparent to the American government that France and Russia strongly feared the immediate forcible occupation of Florida by the United States in case Spain refused to ratify the treaty within the stipulated time. Such an action would be the beginning of hostilities and these two nations earnestly endeavored to prevent the United States from taking such a course, owing to the tendency to kindle a general war which they feared would be the consequence of the war between the United States and Spain. The methods by which they endeavored to persuade the United States, "not by any regular official communications, but by informal friendly advice," were appreciated by the American government.⁵⁰

Monroe determined to send a message to Congress on the Florida affair. He again asked Adams to inquire of Poletica if it would be satisfactory to the Emperor that public reference should be made in it to the sentiments avowed by him concerning the settlement of the differences of the United States with Spain. To Adams's inquiry Poletica answered that he was sure it would be not only satisfactory but gratifying to the Emperor, and he let Adams

⁴⁹ Count Nesselrode to P. de Poletica. Nov. 27 (Dec. 9), 1819. *Annals of Congress*. 16th Cong., 2d Sess., 1820-1821, p. 1402; J. Q. Adams, *Memoirs*, vol. 5, p. 24.

⁵⁰ J. Q. Adams to Wm. Lowndes. Dec. 21, 1819. *American State Papers*, For. Rel., vol. 4, p. 674.

copy of the part of Nesselrode's letter to him which to Spain.⁵¹

March 27, 1820, President Monroe sent the message to us transmitting extracts from despatches of Campbell to the President. He called the attention of Congress to the interest of the Emperor in promoting the ratification of the Florida treaty, and also to the Russian *chargé's* interest in obtaining a pledge from the Spanish government that the new Spanish minister would start on his mission immediately and with full powers to settle all differences. "It is to be added," the message said, "that the governments of France and Russia have expressed an earnest desire that the United States would take no steps for the present on the subject of reprisal which might possibly tend to disturb the peace between the United States and Spain. There is no cause to presume from the delicate manner in which the sentiment has been conveyed that it is founded in a belief that as a desire that our just object may be accomplished without the hazard of such an extremity." Therefore the President proposed to Congress to postpone to the next session a decision on the question then pending with Spain.⁵²

The message gave considerable satisfaction to the Russian government, and Nesselrode informed Campbell that the Emperor was much pleased with it.⁵³ And Alexander himself wrote to the American minister the great satisfaction with which he had learned the course the American government had pursued toward Spain. With much apparent sincerity he expressed his pleasure at the manner in which reference was made to him in the President's message on the subject of the Floridas. He charged Campbell to assure the American government that he would do all in his power to maintain the most perfect friendship with them. He then pro-

J. Adams, *Memoirs*, vol. 5, pp. 33-35.

Messages and Papers of the Presidents, vol. 2, p. 69.

V. Campbell to J. Q. Adams. June 6/18, 1820. Despatches, vol. 7; no. 25. MS., State Department Archives.

ceeded to remark that from the situation of the two countries it must be their true policy to cultivate with each other the best understanding and to carry on a commerce believed to be mutually beneficial to both, as there was no ground upon which any collision of interests could arise between them. The Czar closed this audience by again charging Campbell to inform the President of his appreciation of the reference to him in the message, and to assure the American government that it would always find in him "a true and loyal friend." To Campbell the whole demeanor of the Emperor on this occasion appeared to be evidently studied and designed to produce the strongest impression of his friendly sentiments towards the United States, and to procure, or rather confirm, in turn like sentiments on their part towards the Imperial government.⁵⁴

In March, 1820, Campbell wrote to Adams that some time before it had been reported that Spain was about to cede California to Russia, and that Cathcart, the British ambassador to St. Petersburg, had applied to Nesselrode for the truth of this report, which was denied. Nevertheless, Campbell said, it was his opinion that Russia was likely to expand if she could get the opportunity.⁵⁵

The arrival in Washington in 1820 of Vivas, the new Spanish minister, gave promise of a speedy and amicable settlement of the difficulties between the United States and Spain. Poletica manifested no further interest in the matter. The suppression of the revolutionary movements in Europe and the opening up of the Eastern question by the revolt of the Greeks now absorbed all the attention of Russia. The offer to the United States to become a member of the Holy Alliance was never made again. It was a strong and

⁵⁴ G. W. Campbell to J. Q. Adams. June 25 (July 7), 1820. Despatches, Russia, vol. 7, no. 26. MS., State Department Archives.

⁵⁵ G. W. Campbell to J. Q. Adams. March 13/25, 1820. Despatches, Russia, vol. 7, no. 22. MS., State Department Archives.

flattering proof of the prominent position of the United States in world politics even at that early period of their existence. But Monroe was determined to continue in the policy laid down by Congress when, in 1783, it refused to renew to Dana or any other minister of the United States the power to accede to the maritime confederacy. And Adams, speaking officially for Monroe's administration, declared: "The political system of the United States is . . . essentially extra-European. To stand in firm and cautious independence of all entanglements in the European system has been a cardinal point of their policy under every administration of their government from the peace of 1783 to this day. . . . Yet in proportion as the importance of the United States as one of the members of the general society of civilized nations increases in the eyes of others, the difficulties of maintaining this system and the temptations to depart from it increase and multiply with it." Should renewed overtures on this subject be made Russia would be answered "that the organization of our government is such as not to admit of our acceding formally to that compact. But it may be added that the President, approving of its general principles and thoroughly convinced of the benevolent and virtuous motives which led to the conception and presided at the formation of his system by the Emperor Alexander, believes the United States will more effectually contribute to the great and sublime objects for which it was concluded by abstaining from a formal participation in it. As a general declaration of principles, . . . the United States not only give their hearty assent to the articles of the Holy Alliance but they will be among the most earnest and conscientious in observing them. But independent of the prejudices which have been excited against this instrument in the public opinion, which time and experience of its good effects will gradually wear away, it may be observed, that for the repose of Europe as well as of America, the American and Euro-

pean systems should be kept as separate and distinct from each other as possible."⁵⁶

Like his predecessors, Campbell would have liked to enter into commercial negotiations with Russia. But he saw that though the Russian government was doubtless disposed to encourage the extension of the trade carried on with the United States, which was considered in proportion to its amount the most valuable enjoyed by the empire, yet there was good reason to believe it was still disinclined to enter into any commercial stipulation by treaty. Russia was very desirous of encouraging her own manufactures and was making every effort towards that end, and therefore wished to remain at liberty, unrestrained by any engagements with other powers, to adopt such regulations in regard to commerce as might best produce that result.⁵⁷

Campbell had been at his post scarcely eight months when he began to make repeated requests to be recalled. The death of three of his children in one week and the effect of the climate upon his own health and that of the remainder of his family made him desirous to leave Russia. Like Pinkney, he asked to be withdrawn on leave of absence in order not to have to undergo the disagreeable situation of refusing the gifts from the court.⁵⁸ Under these circumstances the President could only grant his request, and on August 23, 1819, Adams wrote him that the President had consented to his return to the United States on leave of absence and whenever it suited him, and that the affairs of the legation were to be left in charge of Charles Pinkney.⁵⁹

⁵⁶ J. Q. Adams to H. Middleton. July 5, 1820. Instructions, vol. 9. MS., State Department Archives.

⁵⁷ G. W. Campbell to J. Q. Adams. Feb. 16/28, 1820. Despatches, Russia, vol. 7, no. 21. MS., State Department Archives.

⁵⁸ Same to same. April 21 (May 3), May 3/14, May 24 (June 5), June 14/26, and July 8/20, 1819. Despatches, Russia, vol. 7, nos. 6, 7, 8, 9 and 10. MSS., State Department Archives.

⁵⁹ J. Q. Adams to G. W. Campbell. Aug. 23, 1819. Instructions, vol. 8, no. 6. MS., State Department Archives.

ing thus received permission from his government, ell left St. Petersburg on July 8, 1820,⁶⁰ on leave of , thus terminating a mission which had given the satisfaction to the Russian government.⁶¹

V. Campbell to J. Q. Adams. Aug. 10, 1820. Despatches, vol. 7, no. 27. MS., State Department Archives.
eror Alexander to President Monroe. Feb. 22, 1821. Rus-
ation, vol. 1.

CHAPTER VIII.

RUSSIAN ARBITRATION IN REFERENCE TO THE TREATY OF GHENT.

By the first article of the treaty of Ghent it was agreed between the United States and Great Britain that "all territory, places, and possessions whatever, taken by either party from the other during the war, or which may be taken after the signing of this treaty, . . . shall be restored without delay, and without causing any destruction, or carrying away of the artillery or other public property originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves or other private property."¹ Under this article the United States claimed for their citizens, as their private property, the restitution of or full compensation for all slaves who, at the date of the exchange of the ratifications of the treaty of Ghent, were in any territory, places or possessions directed by the treaty to be restored to the United States, but then still occupied by the British forces, whether such slaves were, at that date, on shore, or on board any British vessel lying in waters within the territory or jurisdiction of the United States. This claim Great Britain refused to admit, holding that it was not the true intent and meaning of the article. To settle this difference it was agreed in the fifth article of a treaty, signed at London, October 20, 1818, that Great Britain and the United States should refer this dispute to some friendly sovereign or state, to be named for the purpose, and that the contracting parties should consider the decision of the sovereign or state so chosen to be final and conclusive in all matters referred.²

¹ American State Papers, For. Rel., vol. 3, pp. 745-748.

² American State Papers, For. Rel., vol. 4, p. 407.

accordance with this agreement Rush, the American minister to Great Britain, proposed on January 13, 1820, to Lord Clarendon, the British minister of foreign affairs, the choice of Russia as the choice of the United States for the settlement of the slave question; since he was the only "sufficiently independent" sovereign of which they had "political relations."³ A week later he was informed that the Prince Regent had confirmed this selection.⁴

It was now necessary for the President to appoint a successor to Campbell. Like Daschkoff,⁵ Poletica tried to influence presidential appointments. He endeavored to push first of Levett Harris, and then of Poinsett, for the mission.⁶ Monroe, however, offered the place to Middleton of South Carolina, a man of parliamentary experience but of no previous diplomatic training.⁷ With the understanding that the principal object of the mission was to be the reference to the Emperor Alexander of the claim of indemnity against Great Britain, accompanied by the appointment.⁸

Secretary Adams's instructions to the new minister were devoted to explanations of the interpretation which the United States put on the first article of the treaty of 1809. Middleton was authorized to make presents to the Russian ministers and clerks for their trouble in this negotiation. These presents, however, were to be made with the knowledge and consent of the Emperor and with the understanding that the minister of the United States was to

Adams, *Memoirs*, vol. 5, p. 407.

Memoranda of a Residence at the Court of London, pp.

Adams, *Memoirs*, vol. 4, p. 283.

401-402; 474-475.

25.

Middleton to J. Q. Adams. Feb. 2, 1820. Despatches, Russia (private). MS., State Department Archives. The President's nomination to the Senate on April 5, 1820, and confirmed the next day. Senate Executive Journal, vol. 3,

receive none in return. He was to endeavor to ascertain in what light the revolutionary proceedings in Spain were regarded in St. Petersburg, what influence they would have upon the unsettled dispute between Spain and Portugal for Montevideo, and what opinions were entertained with regard to the South American struggles for independence.⁹

Adams also informed Middleton of the offer of the Russian minister for the United States to become a party to the Holy Alliance; and he stated that it was "the President's absolute and irrevocable determination" not to join the league, "although he trusts that no occasion will present itself rendering it necessary to make that determination known by an explicit refusal."¹⁰

Middleton proceeded first to London in order to make with the British government the preliminary arrangements necessary on both sides before the controversy between the two countries could be laid before the Russian Emperor. But as Lord Castlereagh refused to come to an agreement a delay ensued.¹¹ Finally Castlereagh gave way and agreed to preliminary conditions which were acceptable to the American envoy.¹²

European affairs had forced Castlereagh to yield, for England now stood alone in the concert of the great powers. The Emperor Alexander had proposed, on April 1, 1820, the joint action of the European powers in Spanish affairs. England had answered by a direct and energetic negative. In spite of England's opposition a conference of sovereigns was arranged to be held at Troppau, in October, 1820, to consider the political situation in the Latin countries.¹³

⁹ J. Q. Adams to H. Middleton. July 5, 1820. Instructions, vol. 9. MS., State Department Archives.

¹⁰ *Ib.*

¹¹ H. Middleton to J. Q. Adams. London, Aug. 28, 1820. Despatches, Russia, vol. 8, no. 1. MS., State Department Archives.

¹² Same to same. London, Sept. 15, 1820. Despatches, Russia, vol. 8, no. 2. MS., State Department Archives.

¹³ Fyffe, *History of Modern Europe*, vol. 2, pp. 189-197; Skrine, *Expansion of Russia*, pp. 66-67.

Having reached an agreement with Castlereagh, Middleton proceeded to St. Petersburg, arriving there October 28 (O. S.), 1820. He was not able to push the arbitration for some time as both the Emperor and Nesselrode were absent at the Troppau conference,¹⁴ which in January, 1821, was transferred from Troppau to Laybach. And so it was not until June 17, 1821, that Middleton was presented to the Czar, whom he considered to be the best informed man on American affairs whom he had talked with in Russia.¹⁵

In the meanwhile Middleton had discussed the arbitration with Sir Charles Bagot, the British ambassador at St. Petersburg, and had told him the substance of what had been agreed upon at London. Bagot informed him that although he was authorized by his original instructions to make application to the Emperor jointly with the American minister, no later instructions nor a full power had yet been sent him. Middleton then discussed the affair with Senator Divow, who was in charge of the foreign office *ad interim* and whose usual duty was to prepare business as *chef de bureau* for the eye of the Emperor. At Divow's request Middleton gave him a short statement of the American side of the case, with which Divow seemed much pleased, promising "to put affairs *en train* against the return of the Emperor."¹⁶

But Bagot's full power for the negotiation did not arrive. He declared that he was under the impression that his court considered him as already authorized to go on with the reference, and he furnished Middleton with a copy of his instructions. Upon Sir Charles's assurance that he was fully empowered to act Middleton then urged immediate steps. And on June 9/21, 1821, Middleton sent a note to Nesselrode, informing him that Great Britain and the United

¹⁴ H. Middleton to J. Q. Adams. St. Petersburg, Dec. 6/18, 1820. Despatches, Russia, vol. 8, no. 3. MS., State Department Archives.

¹⁵ H. Middleton to J. Q. Adams. June 8/20, 1821. Despatches, Russia, vol. 8, no. 5. MS., State Department Archives.

¹⁶ Same to same. April 8/20, 1821. Despatches, Russia, vol. 8, no. 4. MS., State Department Archives.

States had agreed to refer their differences regarding the true interpretation of the first article of the treaty of Ghent to some friendly sovereign, pledging themselves to accept his decision as final, and that, at the suggestion of the United States, the Emperor of Russia had been agreed upon as the arbitrator. Therefore at the order of the President Middleton requested the Count to inform the Emperor of the wish of the United States that he would consent to be the umpire in this matter. Nesselrode accepted in the Emperor's name, and requested Middleton to send him all the papers which would clear up and place in its true light the question on which the Emperor was called to decide. At the same time identical notes passed between Nesselrode and Bagot.¹⁷

In response to Nesselrode's request Middleton sent him the act by which the United States and Great Britain were to refer, through their ministers, their differences to the Emperor of Russia, and also a short "*exposé*" of the circumstances which led to their contention and the correspondence which had taken place with regard to it.¹⁸ A "*compromis*" was then drawn up and sent to Nesselrode by the two ministers. In this the article in dispute was given and the claims of both parties set forth. This was drawn up in duplicate and signed by both the plenipotentiaries, each signing first and naming first his own government in the paper presented by him. In the compilation of this paper Middleton endeavored to give a very condensed view of the case, to make the character of the reference decidedly an arbitration, and to reserve under the convention the right

¹⁷ H. Middleton to J. Q. Adams. July 20 (Aug. 1), 1821. Despatches, Russia, vol. 8, no. 6; H. Middleton to Count Nesselrode. June 9/21, 1821. Ib., inclosure B; Count Nesselrode to H. Middleton. June 22 (July 4), 1821. Ib., inclosure C; Sir Charles Bagot to Count Nesselrode. June 9/21, 1821. Ib., inclosure E; Count Nesselrode to Sir Charles Bagot. June 22 (July 4), 1821. Ib., inclosure D. MS., State Department Archives.

¹⁸ Despatches, Russia, vol. 8, no. 6, inclosure H. State Department Archives. The *exposé* or memorial was entitled "*Précis de la Question ou Exposé abrégé du différend qui est survenu par rapport au premier article du traité de Grand entre les États-Unis d'Amérique et l'Angleterre avec des pièces justificatives.*"

of referring again to the Emperor any further difficulties which might arise in the case.¹⁹

Middleton's "*exposé*" or memorial the Emperor had sent to Bagot with the request for his comments upon it, and Nesselrode informed Middleton that, when the Emperor had received Bagot's observations, he would inform Middleton of Bagot's reply if he considered that any new information was necessary. Owing to the affairs of Turkey, which were then a matter of great discussion between Great Britain and Russia, Bagot delayed for some time making a reply to Middleton's memoir.²⁰ It was not until November 1, 1821, that Nesselrode sent Middleton a copy of Bagot's observations and invited him to answer them, informing him that this reply in turn would be communicated to Bagot, who could then prepare one too; and then if Middleton and Bagot should agree to close this written discussion the Emperor, after having maturely weighed the cases of both parties, would render the decision. In the course of a few days Middleton sent in his reply.²¹ Bagot having answered in turn this reply of Middleton's in December, Nesselrode wrote to Middleton, sending him a copy of Bagot's reply and asking him to let him know if he consented to closing this written debate. As Bagot announced that he had nothing more to say, Middleton consented to the closure of the discussion. The matter then rested in the hands of the Emperor for his decision.²²

¹⁹ H. Middleton to J. Q. Adams. July 20 (Aug. 1), 1821. Despatches, Russia, vol. 8, no. 6, and inclosure I. MS., State Department Archives.

²⁰ H. Middleton to J. Q. Adams. Aug. 20 (Sept. 1), 1821. Despatches, Russia, vol. 8, no. 8. Count Nesselrode to H. Middleton. Aug. 9, 1821. *Ib.*, inclosure A. MS., State Department Archives.

²¹ H. Middleton to J. Q. Adams. Oct. 29 (Nov. 10), 1821. Despatches, Russia, vol. 8, no. 12, and inclosures 1 and 2. MS., State Department Archives.

²² Count Nesselrode to H. Middleton. Dec. 20, 1821. Despatches, Russia, vol. 8, no. 15, inclosure 1; H. Middleton to Count Nesselrode. Dec. 21, 1821. *Ib.*, inclosure 3. MSS., State Department Archives.

In the meanwhile it looked as if Russia were going to war with Turkey, in which event there would be a clash of Russian interests with those of England and Austria. It was not until this war cloud had been removed through the diplomacy of Metternich that the Emperor gave his decision as to the proper interpretation of the disputed article of the treaty of Ghent.²³ About the latter part of April, 1822, Bagot and Middleton were summoned to the foreign office and the decision was confidentially read to them.²⁴ It was entirely in favor of the United States. It declared:

"That the United States of America are entitled to a just indemnification from Great Britain for all private property carried away by the British forces; and as the question regards slaves more especially, for all such slaves as were carried away by the British forces from the places and territories of which the restitution was stipulated by the treaty, in quitting the said places and territories;

"That the United States are entitled to consider, as having been so carried away all such slaves as may have been transported from the above-mentioned territories on board of the British vessels within the waters of the said territories, and who, for this reason, have not been restored;

"But that, if there were any American slaves who were carried away from the territories of which the first article of the treaty of Ghent has not stipulated the restitution to the United States, the United States are not to claim an indemnification for the said slaves."

In addition the Emperor stated his willingness to exercise the office of mediator in the negotiations which must ensue between the United States and Great Britain in consequence of this award.²⁵

Bagot then inquired if the English government was bound to indemnify the United States for any slaves who, coming

²³ Debidour, *Histoire Diplomatique de l'Europe*, t. 1, pp. 165-174.

²⁴ H. Middleton to J. Q. Adams. April 24 (May 6), 1822. Despatches, Russia, vol. 9, no. 18. MS., State Department Archives.

²⁵ American State Papers, For. Rel., vol. 5, p. 220.

from places which had never been occupied by the British troops, voluntarily joined the British forces, either from the encouragement of the English officers or to free themselves from the power of their masters, these slaves not having been carried away from places of which the article stipulated the restitution. Middleton at once protested and declared that Bagot misconceived the meaning of the decision, which was worded entirely in the terms of the treaty, and should not therefore attempt to draw any line of distinction between slaves captured and such as had voluntarily surrendered themselves. He further said that he could not imagine it could be the Emperor's intention to countenance the doctrine that such a mode of warfare as that was legitimate.²⁶

This discussion drew from Nesselrode a note which was to be taken as an annex to the final decision of the Emperor. In this note Nesselrode stated that the Emperor had declared, in consequence of Bagot's question,

"That in quitting the places and territories of which the treaty of Ghent stipulates the restitution to the United States, his Britanic Majesty's forces had no right to carry away from these same places and territories, absolutely, any slave, by whatever means he had fallen or come into their power.

"But that if, during the war, American slaves had been carried away by the English forces from other places than those of which the treaty of Ghent stipulates the restitution, upon the territory, or on board British vessels, Great Britain should not be bound to indemnify the United States for the loss of these slaves, by whatever means they might have fallen or come into the power of her officers."²⁷

²⁶ H. Middleton to J. Q. Adams. April 24 (May 6), 1822. Despatches, Russia, vol. 9, no. 18. MS., State Department Archives.

²⁷ Count Nesselrode to H. Middleton. April 22 (O. S.), 1822. American State Papers, For. Rel., vol. 5, p. 221. In commenting on this award J. Q. Adams said in his diary that it was expressed in language needing more explanation than the paragraph of the article which was in question. J. Q. Adams, *Memoirs*, vol. 6, p. 45.

Believing a convention for indemnification made under the mediation of Russia to be the most effectual mode of securing the complete carrying out of this award, Middleton wrote to Nesselrode requesting that the Emperor should appoint a plenipotentiary on his part for the purpose of framing a convention, in which Russia should intervene as the mediating power and by which the United States and Great Britain could agree to the means of carrying out the decision which the Emperor had just pronounced.²⁸ Likewise Middleton wrote to Bagot asking him to make the same request to Nesselrode, which he agreed to do.²⁹

In response to these requests the Emperor appointed Nesselrode and Capodistrias as his representatives.³⁰ A project for a convention was then arranged between the British and American ministers. This project embodied the award of the Russian Emperor and provided modes of ascertaining and determining the value of slaves and other private property which might have been carried away in contravention of the treaty of Ghent, for which indemnification was to be made to the citizens of the United States in consequence of the Russian Emperor's award, and of securing compensation to the sufferers for their losses so ascertained and determined.³¹ This project having received the Emperor's sanction, the convention was then signed on July 12 (N. S.), 1822, by the Czar's plenipotentiaries and the two ministers.³²

While these negotiations were in progress and it appeared likely that England and Austria would oppose the Emperor in case of a war between Russia and Turkey,³³ advances

²⁸ H. Middleton to Count Nesselrode. April 27 (May 9), 1822. Despatches, Russia, vol. 9, no. 9, inclosure 1. MS., State Department Archives.

²⁹ H. Middleton to Sir C. Bagot. April 27 (May 9), 1822. *Ib.*, incl. 2. Sir C. Bagot to H. Middleton. May 6/18, 1822. *Ib.*, inclosure 3.

³⁰ Count Nesselrode to H. Middleton. May 16, 1822. *Ib.*, inclosure 5.

³¹ American State Papers, For. Rel., vol. 5, pp. 214-217.

³² H. Middleton to J. Q. Adams. July 4/16, 1822. Despatches, Russia, vol. 9, no. 12, inclosure 9. MS., State Department Archives.

³³ Debidour, *Histoire Diplomatique de l'Europe*, t. 1, p. 169.

were made to the American minister at St. Petersburg to see if American aid might not be secured in return for commercial concessions. An official "who holds a place near the Emperor's person" approached Middleton, in the early part of September, 1821, and asked him why he had not proposed a commercial treaty; his predecessors had done so, but it was English influence that had prevented it. He advised Middleton to speak now to Nesselrode about it, who would discourage it, although the proposal would be acceptable. Great changes were about to take place in a short time, for the Emperor was much dissatisfied with his position in European affairs. Austria and perhaps England also had formed an alliance with the Porte, while February next (1822) was the date at which hostilities would begin between Russia and Turkey. Middleton was then asked if the United States would not do something in aid of the Russian cause, which was that of Greece, by a squadron. The hint was given that the presence of an American fleet in the Mediterranean and in the Baltic would be desirable. Without any comment Middleton reported this communication to his government.⁸⁴

When this despatch had been received in America, the President thought that, by taking advantage of Russia's disagreement with England, the United States might secure to themselves all the commercial advantages which England had hitherto enjoyed in Russia, and he asked Adams if he did not think that Middleton ought to be immediately instructed to propose and negotiate a commercial treaty with Russia. To this Adams emphatically objected. The object of this proposal, he said, was simply to bring the United States into a political connection with Russia. To have an American squadron in the Mediterranean was its aim. A commercial treaty was simply a lure, as the American government was supposed to be very anxious to make such a

⁸⁴ H. Middleton to J. Q. Adams. Despatches, Russia, vol. 8, no. 8. Confidential postscript, dated Aug. 30 (Sept. 12), 1821. MS., State Department Archives.

treaty. The United States could really obtain nothing of any importance from Russia in a commercial treaty. Russia had no discriminating duties, no colonial monopolies to remove, while all the trade between the two countries was carried on in American vessels. Russia imported from the United States sugar, coffee and raw cotton without heavy duties, and all that could possibly be obtained would be a trifling reduction of tariff. For everything thus obtained an equivalent would be exacted, and that would evidently be something political. Adams said he knew that the Emperor Alexander had a rooted personal aversion to commercial treaties, considering them, as they certainly were, uncongenial to the policy of Russia. He had always refused to renew the old commercial treaty with Great Britain, and always hitherto declined a treaty with the United States. If he had now changed his mind, the United States would soon discover that for any advantage he might be disposed to yield he would claim for an equivalent something more than it was worth. The President replied that on no consideration whatever would he enter into any political entanglement with Russia.⁸⁵ And so instructions to that effect were sent to Middleton, and he was informed that the American government did not think either a commercial or a political treaty to be very urgent, as from all appearances the universal peace was not likely to be disturbed.⁸⁶

⁸⁵ J. Q. Adams, *Memoirs*, vol. 5, pp. 429-431.

⁸⁶ J. Q. Adams to H. Middleton. Dec. 6, 1821. Instructions, vol. 9, no. 11. MS., State Department Archives.

CHAPTER IX.

THE TREATY OF 1824.

the course of Russian expansion in Siberia, as planned to enter the Great, brought Russian explorers to the north-coast of America.¹ The voyage of Behring in 1740—along this coast incidentally disclosed the fact that the region was extremely rich in furs, which were the principal article of export in the Russian trade with China.² Voyages to this region in quest of that commodity resulted in the establishment of trading posts, which were extended as trade increased.³ As the result of demoralizing competition between rival companies and independent traders, the Russian American Company was formed by a ukase of July 1799, to which was granted for a term of twenty years a monopoly of the trade and an exclusive jurisdiction of the American coast north of the fifty-fifth degree of north latitude. They had also the right to make discoveries and to acquire, as Russian possessions, new territory on either side of the fifty-fifth parallel not already occupied by any other nation, and to govern, fortify, and defend its colonies.⁴

Spain and Great Britain had likewise been engaged in the fur-trade on the northwest coast of America, but from 1796 to 1815 they were so engrossed in the wars of Europe that the fur-trade between the American coasts on the Pacific and Asia was carried on exclusively by American vessels. These vessels exchanged with the natives wine, firearms, ammunition, and coarse manufactures for furs. These furs

Greenhow: *Memoir, Historical and Political, on the Northwest Coast of North America*, pp. 59–60.

ibid., pp. 38, 64.

ibid., p. 88.

Proceedings of the Alaskan Boundary Tribunal. 58th Cong., 2d Sen. Doc. no. 162, vol. 2, pp. 23–24.

were then sold at Canton for teas, silks, and other articles destined for the markets of Europe or the United States.⁶ This trade was so lucrative that from 1790 the number of American vessels engaged in it constantly increased.⁶

As these independent American traders secured a considerable portion of the skins sold by the natives, they undoubtedly interfered with the monopoly of the Russian American Company. In addition they were favored by the Chinese by being permitted to dispose of their furs at Canton, from which port the Russians were excluded by treaty. As a result the Russians were compelled to carry their peltries into China by a long overland route through Siberia.⁷

Extremely exasperated by this interference in their monopoly, the Russian American Company complained that, by reason of the firearms and ammunitions sold to the natives by the American traders, considerable damage was done to their settlements on the northwest coast of America. Unquestionably there was some ground for this complaint. In 1808 Count Romanzoff proposed to Consul Harris a convention by which the trade of American citizens on the northwest coast of America should be restricted to a common market and should be exclusively with the Russian American Company.⁸ In 1810 Daschkoff, the Russian *chargé*, renewed the complaint of the Russian government against this trade, and suggested to the American government that it prohibit, by statute or treaty, its citizens from trading with the natives on the northwest coast and that it confine their intercourse to the Russian establishments. As Daschkoff was unable to fix boundaries within which this prohibition was to operate, the negotiations were transferred to St. Petersburg. When the question was opened at St. Petersburg Romanzoff stated

⁶ Greenhow, *Memoir, etc.*, p. 143; Greenhow, *History of Oregon and California*, pp. 266-267.

⁷ Pitkin, *Statistical View of the Commerce of the United States of America*, p. 249.

⁸ Greenhow, *Memoir, etc.*, p. 174; Greenhow, *History of Oregon and California*, p. 268.

⁹ See *ante*, p. 38.

that Russia claimed all the northwest coast of America down to the Columbia River. But, upon seeing that Adams was determined to resist such a claim, he dropped the negotiation, as he did not wish to antagonize the United States at that critical stage in European affairs.⁹

In spite of these abortive attempts at negotiation, the Russians increased their trade in the Pacific and took possession of the country near the Spanish port of San Francisco, in spite of the protestation of the Spanish governor.¹⁰ Whether there was any connection between the expansion of Russia on the west coast of America and her interest in the restoration of Spain's revolted colonies was never made clear.

In 1821 the Emperor Alexander renewed the charter of the Russian American Company, and in order to protect the monopoly by that company of the trade on the Russian coasts and islands in the Pacific from the interference of Americans, he issued, on September 4/16, 1821, a ukase for the benefit of that company.¹¹ By the first article of this ukase

"The pursuits of commerce, whaling, and fishery, and of all other industry on all islands, posts, and gulfs, including the whole of the northwest coast of America, beginning from Behring Straits to the fifty-first degree of northern latitude, also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands from Behring Straits to the south cape of the Island of Urup, viz., to the 45° 50' north latitude, is exclusively granted to Russian subjects." And by the second article

"It is therefore prohibited to all foreign vessels not only to land on the coasts and islands belonging to Russia, as stated above, but also to approach them within less than one hundred Italian miles. The transgressor's vessel is subject

⁹ See *ante*, pp. 47-52.

¹⁰ Greenhow: *History of Oregon and California*, p. 327.

¹¹ Count Nesselrode to Count Lieven. Oct. 7, 1821; Sir Charles Bagot to Marquess of Londonderry. Nov. 17, 1821. *Proceedings of the Alaskan Boundary Tribunal*, vol. 2, pp. 99-100, 101.

to confiscation along with the whole cargo." While by the fourteenth

"It is likewise interdicted to foreign ships to carry on any traffic or barter with the natives of the islands, and of the northwest coast of America, in the whole extent here above mentioned. A ship convicted of this trade shall be confiscated."¹²

To enforce these provisions a Russian fleet was despatched to the northwest coast of America.¹³

On February 11, 1822, Poletica, in accordance with his orders, sent Secretary Adams a printed copy of this ukase, in order to inform him that the Imperial government would hold that a foreign ship which should sail from a European port after March 1, 1822, or from a port of the United States after July 1, could not lawfully pretend ignorance of these regulations.¹⁴

It was two weeks before Adams replied to this communication. He expressed the President's surprise at Russia's claims upon land and sea. He said that it was expected, before any act should definitely fix the boundary between the territories of the United States and Russia on this continent, that the same would have been arranged by treaty between the parties. To exclude the vessels of American citizens from the shore, beyond the ordinary distance to which the territorial jurisdiction extended, excited still greater surprise. Therefore, as this ordinance affected so deeply the rights of the United States and their citizens, Adams inquired if Poletica was empowered to give explanations of the grounds upon which these claims were based.¹⁵

Poletica replied that Russia based her claims to that part of the northwest coast of America specified in the regulation

¹² American State Papers, For. Rel., vol. 4, pp. 857-861.

¹³ Count Nesselrode to Count Lieven. Oct. 7, 1821. Proceedings of the Alaskan Boundary Tribunal, vol. 2, p. 100.

¹⁴ A. de Poletica to J. Q. Adams. Jan. 30 (Feb. 11), 1822. American State Papers, For. Rel., vol. 4, pp. 856-857.

¹⁵ J. Q. Adams to A. de Poletica. Feb. 25, 1822. American State Papers, For. Rel., vol. 4, p. 867.

Russian American Company upon the title of first discovery, first occupation, and a peaceable and uncontested possession for more than half a century. He also said that if the right to the possession of a certain extent of the same territory claimed by the United States rested only upon the treaty of Washington, 1819 (and Poletica declared that he thought it would be difficult to make good any other title), the treaty could not confer upon the American government the right to oppose the limits assigned to the Russian possessions on the same coast, as Spain herself had never pretended to such a right.

Furthermore, Poletica stated that Russia had been very exact in her use of an incontestable right, for the Russian navigators who were the first to explore that part of the American continent in 1741 had pushed their discoveries as far as the forty-ninth degree north latitude. The fifty-first degree, therefore, was no more than a mean point between the Russian establishment of New Archangel, situated under the fifty-seventh degree, and the American colony at the mouth of the Columbia, which was under the forty-sixth degree of the same latitude.

Poletica likewise declared that the Emperor had observed the same moderation in prohibiting foreign vessels from approaching that part of the coast of America belonging to Russia within the distance of at least one hundred Italian miles.

For, as the Russian possessions on the American continent extended from Behring Straits to the fifty-first degree north latitude, and on the opposite side of Asia and the Pacific adjacent from the same strait to the forty-fifth degree, the extent of sea, of which these possessions formed the limits, included all the conditions which were ordinarily attached to closed seas; therefore Russia, if she saw fit, might exercise upon this sea the rights of sovereignty, and especially that of interdicting the entrance of foreigners.

Poletica explained that this ukase had no hostile intention, but that it was solely directed against persons who carried

on a trade prejudicial to the rights entirely reserved to the Russian American Company, and who furnished arms and ammunitions to the natives and incited them to resistance and revolt against the Russian authorities. Such persons, Poletica declared, were mostly Americans, and he recalled to Adams that the Russian government had remonstrated before on this subject without avail, and as the difficulties were increasing the regulation in question had been determined upon to stop the evils of which complaint was made.¹⁹

When Secretary Adams answered Poletica's note, he said that upon such reasonings as were advanced by Poletica the United States could not accede either to Russia's claim to the fifty-first degree on the northwest coast, or to that of prohibiting vessels from approaching within one hundred Italian miles of that coast. From the period of the existence of the United States as an independent nation their vessels had freely navigated the seas, and the right to navigate them was a part of that independence. The right of their citizens to trade with the natives of the northwest coast of America, beyond the territorial jurisdiction of other nations, even in arms and ammunitions of war, was as clear and indisputable as that of navigating the seas. Adams then denied that this right had ever been exercised in an unfriendly spirit towards Russia, and said that while general complaints had occasionally been made against this trade, no specific charges had ever been alleged of any transaction in which the United States were bound by the ordinary laws and usages of nations either to retain or to punish. As for the suggestion that the Russian government might be justified in the exercise of sovereignty over the Pacific as a closed sea, because it claimed territory both on its American and Asiatic shores, Adams said that it was only necessary to say that the distance from shore to shore on this sea, in the latitude fifty-

¹⁹ A. de Poletica to J. Q. Adams. Feb. 28, 1822. American State Papers, For. Rel., vol. 4, pp. 861-863.

one degrees north, was not less than ninety degrees of longitude or four thousand miles.¹⁷

As Poletica was not authorized to continue this discussion, he took Adams's note *ad referendum*.¹⁸ In this correspondence each government endeavored to maintain its trading rights on the northwest coast. To preserve an exclusive monopoly for her subjects Russia claimed sovereign rights over the region, while the United States denied those rights in order to maintain the unrestricted intercourse which American traders up to that time had enjoyed with natives on that coast.

This discussion could not be carried further, for Poletica announced that he was going to return to Russia on leave of absence.¹⁹ Such was the manner in which Adams, Pinkney, and Campbell had retired, and such was the mode now adopted by Poletica. His relations with the American government had always been most cordial and by his conduct he had gained the esteem of the President.²⁰ Before he left, however, Adams wrote to him that the President requested that upon his return to St. Petersburg he would inform the Emperor of the President's earnest desire for the continuance of the friendly relations between the two countries, and of "the impossibility that the United States should acquiesce either in the interdiction of their lawfully navigating vessels to approach within 100 Italian miles of the shore of an open sea, or in the disturbance of their citizens in the prosecution of their intercourse with the natives of this continent beyond the degree of 51 north latitude in the region where Russia has never before this edict asserted

¹⁷ J. Q. Adams to A. de Poletica. March 30, 1822. American State Papers, For. Rel., vol. 4, p. 863.

¹⁸ A. de Poletica to J. Q. Adams, March 21 (April 2), 1822. *Ib.*, pp. 863-865.

¹⁹ A. de Poletica to J. Q. Adams. April 16, 1822. Russian Legation, vol. 1. MS., State Department Archives.

²⁰ J. Q. Adams to H. Middleton. May 13, 1822. Proceedings of the Alaskan Boundary Tribunal, vol. 2, pp. 39-40.

exclusive jurisdiction." With Adams's thus having the last word the discussion ceased in America for some time.²¹

From the time that the ukase was published Middleton lost no opportunity of expressing, as his private opinion, his disapproval of it in conversation both with the secretaries and with all such persons whom he knew to be habitually consulted upon questions of a similar nature, although he refrained from taking any official steps until he should receive instructions to do so.²²

Adams's vigorous protest to Poletica had, however, its desired effect. The Russian government quickly saw that its extravagant claims were untenable. Baron Tuyll was again appointed to the American mission and ordered to proceed to Washington without delay. This was done in order that he might agree upon a treaty of limits with the United States which would make unnecessary any further discussion as to the extent of the respective jurisdictions of the United States and Russia on the northwest coast of America, while the Russian fleet was instructed not to apply the one hundred mile rule too strictly.²³

Of this fact the Russian government, doubtless desiring to make as good a bargain with the United States as possible, and not wishing to humiliate itself publicly by so sudden a *volte-face*, did not give any information to Middleton. In fact he was informed that Baron Tuyll had been ordered to proceed to the United States at once in order that there might be no delay in the exchange of the ratifications of the treaty made under the Emperor's mediation relative to his award on the slave question.²⁴

²¹ J. Q. Adams to A. de Poletica. April 24, 1822. Notes to Foreign Ministers, vol. 2. MS., State Department Archives.

²² H. Middleton to J. Q. Adams. Aug. 8/20, 1822. Despatches, Russia, vol. 9, no. 23. MS., State Department Archives.

²³ Minister of Finance to the chief manager of the Russian American Company. July 18, 1822. Proceedings of the Alaskan Boundary Tribunal, vol. 2, pp. 40-41; Memorandum by the Duke of Wellington, Sept. 11, 1822. *Ib.*, pp. 108-109.

²⁴ H. Middleton to J. Q. Adams. July 4/16, 1822. Despatches, Russia, vol. 9, no. 20. MS., State Department Archives.

By Poletica Adams had sent Middleton instructions to make it distinctly understood to the Russian government that the United States could not for a moment acquiesce in the regulations of the ukase, and that they would never admit that they could in any manner impair their rights, or those of their citizens. He was to insist particularly upon the revocation of any orders which might have been given to the Russian war vessels which infringed upon the unquestionable rights of American ships, for should they be molested the excitement in the United States would be very great.²⁸

Upon the receipt of these instructions, Middleton had several conferences with the Russian secretaries of state at which the question of the regulations was fully and freely discussed. At length, hearing that the Emperor was about to set out for the congress at Verona, Middleton, on July 24, 1822, told Capodistrias that he intended to ask for a formal interview with Count Nesselrode before his departure, for the purpose of taking up this subject and urging some decision on it, as he was never able to ascertain officially whether the offensive provisions of the ukase would be repealed. Middleton then read to Capodistrias a *note verbale* which he intended to give Nesselrode. In this note Middleton stated that, as public opinion in the United States was greatly opposed to those regulations in the ukase, and as a careful perusal of them could not fail to show that a state of war between the two nations existed already, owing to the principles that had been avowed on both sides, nothing was lacking to make this complete except a declaration of war or acts of violence, which latter could not fail to be soon forthcoming unless precautionary measures were taken at once. Therefore, to avoid any complications that might arise through hostilities, it was necessary for the Russian government to abstain from putting into execution the

²⁸ J. Q. Adams to H. Middleton. May 13, 1822. Proceedings of the Alaskan Boundary Tribunal, vol. 2, pp. 39-40.

measures ordered by the ukase of September 4/16, 1821, and to revoke the orders issued to the armed vessels, if any such had been issued, authorizing those measures to be carried out.²⁶

Capodistrias advised Middleton not to present this note. He told him that "the Emperor has already had the good sense to see that this affair should not be pushed too far," that the Russian government was not disposed to follow it up and had given orders to the Russian war vessels simply to prevent contraband trade within the limits recognized by the other powers, taking the present Russian establishments as a basis for these operations. By this course the negotiations which might be commenced by Baron Tuyll on his arrival in Washington would not be embarrassed.²⁷

Following Capodistrias's advice, Middleton did not present this note at an interview which he had with Nesselrode on July 27, 1822. At this conference Middleton informed both the secretaries of state of his instructions with regard to the ukase, insisting upon the necessity of the Russian government's suspending the execution of the objectionable regulations. Middleton was then given verbal assurances that the wish of the United States would be complied with, and that it was the intention of the Emperor that Baron Tuyll should be furnished with full powers to adjust all controversies upon the subject of trade and territory upon the northwest coast. Capodistrias then said that the American government ought in the meanwhile to prohibit its citizens from trading in the disputed limits. Middleton declared that this could not be done without admitting the exclusive rights of Russia, and that until those should be proved the American government had no authority to prohibit its citizens from exercising their free industry within

²⁶ H. Middleton to J. Q. Adams. Aug. 8/20, 1822, and inclosure no. 1. Proceedings of the Alaskan Boundary Tribunal, vol. 2, pp. 42-45.

²⁷ H. Middleton to J. Q. Adams. Aug. 8/21, 1822. Proceedings of the Alaskan Boundary Tribunal, vol. 2, pp. 42-45.

the limits sanctioned by the laws of their country and of nations.²⁸ Negotiations on this subject were thus to be transferred again to Washington.

England had likewise protested against the ukase of September 4/16, 1821, but not seriously until at the congress of Verona in November, 1822. As the result of discussions between the Duke of Wellington and Count Lieven it was agreed that the Russian ambassador at London should inform the British government of the Emperor's desire to negotiate upon the whole question of Russia's claims in North America.²⁹ And so on January 31, 1823, Count Lieven proposed to George Canning, the British minister of foreign affairs, that "all the differences to which the regulation in question had given rise should be adjusted by an amicable arrangement, founded on the sole principle of mutual expediency, to be negotiated at St. Petersburg."³⁰ This offer was at once accepted by the British government.³¹

It was not until the middle of April, 1823, that Baron Tuyll, the new Russian minister, arrived in Washington.³² Immediately after his arrival he wrote to the secretary of state that it was the Emperor's desire to have the discussion which had arisen in consequence of the ukase of September 4/16, 1821, settled by a friendly negotiation; that the Imperial ministry had induced the British cabinet to furnish their ambassador at St. Petersburg with full powers to settle the difficulties existing between the two countries on that subject. He was therefore directed to express the desire of the Emperor "that Mr. Middleton be also furnished with the necessary powers to terminate with the Imperial cabinet, by an arrangement on the principle of mutual

²⁸ H. Middleton to J. Q. Adams. Aug. 8/21, 1822. *Proceedings of the Alaskan Boundary Tribunal*, vol. 2, pp. 42-44.

²⁹ Duke of Wellington to George Canning. November 29, 1822. *Ib.*, p. 117.

³⁰ Count Lieven to George Canning. Jan. 19/31, 1823. *Ib.*, p. 118.

³¹ George Canning to Sir Charles Bagot. Feb. 5, 1823. *Ib.*, pp. 118-119.

³² Baron Tuyll to J. Q. Adams. April 18, 1823. *Russian Legation*, vol. 1. MS., State Department Archives.

convenience, all the differences that had arisen between Russia and the United States in consequence of the law published September 4/16, 1821."³³ Russia's reasons for desiring to have the negotiations transferred again to St. Petersburg were obvious.

Before making any reply Adams informed the British minister, Stratford Canning, of this request, desiring that he would mention it to his government, and asking whether, in view of the fact that the necessary powers would in all probability be given to Middleton, it might not be well for the British and American governments to empower their ministers to act in the proposed negotiation on a common understanding. "He added," wrote Stratford Canning to his government, "that the United States had no territorial claims of their own as high as the 51st degree of latitude, although they disputed the extent of those advanced by Russia, and opposed the right of that power to exclude their citizens from trading with the native inhabitants of those regions over which the sovereignty of Russia had been for the first time asserted, . . . and most particularly the extravagant pretension to prohibit the approach of foreign vessels within 100 Italian miles of the coast."³⁴

On May 7, 1823, Adams wrote to Tuyl that the President had accepted his proposal to remove the negotiations again to St. Petersburg, and that Middleton would be furnished with powers to settle the differences between the two countries.³⁵

The question as to who should be the possessor of the northwest coast of America was one of the most vital importance to the United States. At that time apparently the only question involved was the lucrative trade of the Americans with the natives of that region. But back of that there

³³ Same to same. April 12/24, 1823. American State Papers, For. Rel., vol. 5, p. 435.

³⁴ Stratford Canning to George Canning. May 3, 1823. Proceedings of the Alaskan Boundary Tribunal, vol. 2, p. 120.

³⁵ J. Q. Adams to Baron Tuyl. May 7, 1823. American State Papers, For. Rel., vol. 5, pp. 435-436.

X were graver and more far-reaching consequences for the American foreign policy. There were involved the relations of the United States with Russia, American territorial rights, the boundary relations between the United States and the British North American dominions, the fisheries in the Pacific, the commerce with the Sandwich Islands and China and the American boundary with Mexico.⁸⁶

At a meeting of the cabinet on June 28, 1823, the secretary of state was directed to instruct Middleton to propose to the Russian government an article similar to that in the convention between the United States and Great Britain of October, 1818.⁸⁷

On July 17, 1823, Baron Tuyll inquired of Adams what would be the purport of Middleton's instructions for the northwest coast negotiations. Adams told him as much as he thought prudent, but especially that the United States would contest the right of Russia to any territorial establishment on the American continent, and that they would distinctly assume the principle that the American continents were no longer subjects for any new European colonial establishments. Tuyll replied that although there would be difficulties in the negotiations, he did not foresee that they would be insurmountable.⁸⁸

As Adams made a thorough study of the northwest coast question,⁸⁹ it was not until July 22, 1823, that he sent Middleton his instructions with regard to it. The points in dispute, Adams said, were Russia's claims "to an exclusive territorial jurisdiction from the forty-fifth degree of north latitude on the Asiatic coast to the latitude of fifty-one north on the western coast of the American continent," and to "the right of interdicting the *navigation* and fishery of all other nations to the extent of one hundred miles from the whole

⁸⁶ J. Q. Adams to Richard Rush. July 22, 1823. American State Papers, For. Rel., vol. 5, p. 446.

⁸⁷ J. Q. Adams, Memoirs, vol. 6, p. 158.

⁸⁸ *Ib.*, p. 163.

⁸⁹ *Ib.*, p. 159.

of that coast." As the United States could admit no part of these claims, Middleton was to propose that by a joint convention between the United States and Great Britain and Russia the whole of the northwest coast should be free and open for navigation and trade with the natives for a term of ten years. With regard to the territorial claim, separate from the right of traffic with the natives and from any system of colonial exclusion, Middleton was authorized to agree to the fifty-fifth degree of north latitude as the boundary line.

Middleton was further informed that as the British ambassador at St. Petersburg was likewise authorized and instructed to negotiate upon this subject, it might be proper to adjust the interests and claims of the three powers by a joint convention, and for such an event he was accordingly authorized.⁴⁰

The first information that Middleton received that the negotiations upon the ukase of September 4/16, 1821, would be again transferred to St. Petersburg was from Nesselrode. By Sir Charles Bagot he was likewise first informed that a joint negotiation between themselves and the Russian ministry was contemplated.⁴¹

From Adams's conversation with Stratford Canning when he proposed the joint negotiation the British government drew the conclusion that this joint negotiation was to be in regard only to Russia's maritime pretensions.⁴² Therefore Sir Charles Bagot informed Nesselrode that there was a probability that Middleton and himself would soon be instructed to act jointly in negotiating with him some proposition for the definite settlement of that part of the question growing out of the ukase of September 4/16, 1821, which regarded the maritime jurisdiction claimed by Russia on the Pacific Ocean. In regard to the second part of the question, that which related to the territorial claim advanced by Russia

⁴⁰ J. Q. Adams to H. Middleton. July 22, 1823. *American State Papers, For. Rel.*, vol. 5, pp. 436-438.

⁴¹ H. Middleton to J. Q. Adams. Sept. 19, 1823. *Ib.*, p. 448.

⁴² George Canning to Sir Charles Bagot. July 12, 1823. *Proceedings of the Alaskan Boundary Tribunal*, vol. 2, pp. 123-124.

to the northwest coast of North America, he said that, as the United States made no pretension to territory as high as the fifty-first degree of north latitude, the question rested between England and Russia alone and became therefore a matter for separate settlement by their respective governments.⁴³

Shortly after Middleton's receipt (October 16, 1823) of his instructions to open negotiations he had several conferences with Poletica, who during Nesselrode's absence from St. Petersburg had been authorized to hold conferences with the English and American plenipotentiaries relative to the matters in dispute, which conferences were to prepare the way for a definitive adjustment of differences.⁴⁴ Middleton soon discovered that Poletica had no powers to conclude anything, but only to hold *pourparlers*, or, in other words, simply to discuss matters. He also found out that there was a great divergence of opinion between them which would render fruitless all attempts at coming to an understanding with him. So he was not sorry when an incident arose which offered an opportunity to decline further conference with Poletica until it could be renewed with a better prospect of success.⁴⁵

Bagot and Middleton likewise had at the same time several conferences, and although Middleton had not communicated to the British ambassador his instructions, Bagot saw very clearly that the United States, far from admitting that they had no territorial pretensions as high as the fifty-first degree of north latitude and no territorial interest in the demarcation of a boundary between the Russian and English governments north of that degree, as the British cabinet had supposed, on the contrary were "fully prepared to assert

⁴³ Sir Charles Bagot to George Canning. Aug. 19/31, 1823. Proceedings of the Alaskan Boundary Tribunal, vol. 2, pp. 125-127.

⁴⁴ Count Nesselrode to H. Middleton. Aug. 22, 1823. American State Papers, For. Rel., vol. 5, p. 448.

⁴⁵ H. Middleton to J. Q. Adams. Nov. 1/13, 1823. Proceedings of the Alaskan Boundary Tribunal, vol. 2, pp. 57-58.

that they have at least an equal pretension with those powers to the whole coast as high as the sixty-first degree, and an absolute right to be parties to any subdivision of it which may now be made." He saw also that the United States desired that a "division being made, the three powers should enter into a joint convention mutually to grant to each other, for some limited period, renewable at the pleasure of the parties, the freedom of fishery and of trade with the natives, and whatever other advantages the coasts may afford." As such claims by the United States had not been contemplated by the British government, Sir Charles Bagot informed Middleton that, as his powers and instructions were only sufficient to settle the maritime question, he could not proceed any farther with him in the matter until he had received new instructions from his home government. Middleton then seized this opportunity to suspend further proceedings with Poletica.⁴⁶

A revolution had broken out in Spain. At the congress held at Verona in October, 1822, the Czar was bent upon sending a Russian army to take part, as the mandatory of Europe, in the overthrow of the Spanish liberal constitution. But in this he was checked by England and France. The consent of Russia, Austria, and Prussia was given, however, to France to undertake the task, and in April, 1823, a French army invaded Spain and by its means Ferdinand VII. was restored to absolute power again.⁴⁷

In the early part of the year 1822 the United States had recognized the revolted Spanish provinces in South America as independent states.⁴⁸ From the British government now came the news that the allied powers were going to consider the question of restoring these colonies to the dominion of

⁴⁶ Sir Charles Bagot to George Canning. Oct. 17/29, 1823. *Proceedings of the Alaskan Boundary Tribunal*, vol. 2, pp. 129-130; H. Middleton to J. Q. Adams. Nov. 1/13, 1823. *American State Papers*, For. Rel., vol. 5, p. 449.

⁴⁷ Fyffe, *History of Modern Europe*, vol. 2, pp. 212-225; Skrine, *Russia*, p. 72.

⁴⁸ Snow, *Treaties and Topics in American Diplomacy*, p. 263.

⁴⁹ On October 16, 1823, Baron Tuyl announced to the secretary of state in a note that the Emperor of Russia, having been informed that the republican government of Colombia had appointed diplomatic agents to the various European courts and that one was to be sent to St. Petersburg, had declared that he would not receive any agent whatever, whether he be from Colombia or from "any of the governments *de facto* which owe their existence to the revolution of which the new world has been for some years the theatre."⁵⁰ At the same time the Baron informed Adams that the Emperor had seen with great satisfaction the declaration of the American government, when it recognized the independence of the governments in South America, that it would remain neutral, and the Emperor hoped that it would now maintain the same policy. He was answered that when that declaration of neutrality was made by the United States the other powers of Europe had not taken side with Spain; that they had then remained neutral, but should they change their policy, the United States would not be bound by their declaration of things in which the neutrality of the United States had been declared being altered, they would not be bound by their declaration.⁵¹

Shortly afterwards, on November 17, 1823, Baron Tuyl communicated to the secretary of state an extract of a letter from his government in which the conduct of the allied powers in regard to Naples, Spain and Portugal was reviewed and their policy explained, distinctly avowing their determination to crush all revolutionary movements and to preserve order throughout the whole civilized world.⁵²

Q. Adams, Memoirs, vol. 6, pp. 177-184.

Baron Tuyl to J. Q. Adams. Oct. 4/16, 1823. Russian Legation. MS., State Department Archives.

Monroe to T. Jefferson. Dec. —, 1823. Writings of James Monroe, vol. 6, pp. 343-344; J. Q. Adams, Memoirs, vol. 6, pp. 177-184.

Monroe to T. Jefferson. Dec. —, 1823. Writings of James Monroe, vol. 6, pp. 343-344; J. Q. Adams, Memoirs, vol. 6, p. 160; Ford, John Quincy Adams and the Monroe Doctrine, American Historical Review, vol. 8, pp. 30-32.

This communication Adams answered by an informal note in which he declared "that the United States and their government could not see with indifference the forcible interposition of any European power, other than Spain, either to restore the dominion of Spain over her emancipated colonies in America, or to establish monarchical governments in those countries, or to transfer any of the possessions heretofore or yet subject to Spain in the American hemisphere to any other European power."⁵³

The proposals of Canning to Rush for an understanding between their respective governments on South American affairs,⁵⁴ the conduct of the allied powers in Europe, and these communications of the Russian minister, especially coming so soon after the extravagant claims of Russia to the northwest coast, left little doubt in the minds of the President and his advisers that some project against the South American republics was contemplated by the allied powers.⁵⁵ Monroe and his cabinet were in a state of great alarm. They feared, among other things, that the allies, having been successful in restoring to Spain her colonies, might turn against the United States as the first example of successful democratic rebellion.⁵⁶ To check any act of aggression or expansion which the allies or any European power might have in mind with regard to the American continent, and to answer the propositions made by Canning, but in such a way as not to offend or create a crisis with any European nation, the President declared to be the position and policy of the American government in his message to Congress of December 2, 1823.⁵⁷ This policy here stated has since become known as

⁵³ W. C. Ford, *John Quincy Adams and the Monroe Doctrine*, *American Historical Review*, vol. 8, pp. 41-44; J. Q. Adams's *Memoirs*, vol. 6, pp. 211-215.

⁵⁴ Latané, *Diplomatic Relations of the United States with South America*, pp. 74-80.

⁵⁵ J. Monroe to T. Jefferson. Dec. —, 1823. *Writings of James Monroe*, vol. 6, pp. 343-344.

⁵⁶ J. Q. Adams, *Memoirs*, vol. 6, p. 306.

⁵⁷ J. Monroe to T. Jefferson. Dec. —, 1823. *Writings of James Monroe*, vol. 6, pp. 343-344.

the Monroe doctrine. After informing Congress that the American minister to Russia had been given full power and instructions to arrange by amicable negotiation with that country the respective rights and interests of the two nations on the northwest coast of America, President Monroe said: "In the discussions to which this interest has given rise, and in the arrangements by which they may terminate, the occasion has been judged proper for asserting, as a principle in which the rights and interests of the United States are involved, that the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers." Further on in the message the President commented upon the state of affairs in Spain and Portugal and their bearing on the South American question. And in this connection he said: "In the wars of the European powers, in matters relating to themselves, we have never taken any part, nor does it comport with our policy so to do. It is only when our rights are invaded, or seriously menaced, that we resent injuries, or make preparation for our defence. With the movements in this hemisphere, we are, of necessity, more immediately connected, and by causes which must be obvious to all enlightened and impartial observers. The political system of the allied powers is essentially different, in this respect, from that of America. . . . We owe it, therefore, to candor, and to the amicable relations existing between the United States and those powers to declare, that we should consider any attempt on their part to extend their system to any portion of this hemisphere, as dangerous to our peace and safety. With the existing colonies or dependencies of any European power we have not interfered, and shall not interfere. But with the governments who have their independence, and maintained it, and whose independence we have . . . acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling, in any manner, their destiny, by any

European power, in any other light than as the manifestation of an unfriendly disposition towards the United States. . . . Our policy, in regard to Europe, . . . is, not to interfere in the internal concerns of any of its powers; to consider the government *de facto* as the legitimate government for us; to cultivate friendly relations with it, and to preserve those relations by a frank, firm, and manly policy; meeting, in all instances, the just claims of every power; submitting to injuries from none. But, in regard to these continents, circumstances are eminently and conspicuously different. It is impossible that the allied powers should extend their political system to any portion of either continent without endangering our peace and happiness: nor can any one believe that our southern brethren, if left to themselves, would adopt it of their own accord. It is equally impossible, therefore, that we should behold such interposition, in any form, with indifference."⁸⁸

England had been hesitating about issuing instructions to her ambassador at St. Petersburg to combine his negotiations there with those of the American minister. The British government was unwilling to acknowledge that the United States had territorial claims on the northwest coast of America. It was feared also that there might be an understanding between Russia and the United States, or that they might come to one, which would force upon Great Britain some unfavorable agreement. The British cabinet was in this state of uncertainty when the news of President Monroe's message to Congress arrived. Seizing upon this as an excuse, Bagot was ordered to proceed independently in the negotiations.⁸⁹ In informing Middleton of this decision of his government, Sir Charles Bagot showed him a secret memorandum in Canning's own handwriting which stated that "the principle laid down with respect to colonization

⁸⁸ Messages and Papers of the Presidents, vol. 2, pp. 209-211.

⁸⁹ George Canning to Sir Charles Bagot. Jan. 15, 1824. Proceedings of the Alaskan Boundary Tribunal, vol. 2, pp. 144-149.

in the speech of the President of the United States (to which Great Britain does not assent) must be so particularly displeasing to Russia that it may be expected to create some difficulty in the negotiation between Russia and the United States. At all events, it must interpose a difficulty to that union of counsels between the United States and Great Britain without which concert would not be advantageous."⁶⁰

Middleton had in the meanwhile grown impatient that Bagot's further instructions were not forthcoming, and unwilling to delay any longer, he took the opportunity, when Nesselrode mentioned the northwest question, of presenting to him a confidential memoir in which he had embodied the case of the United States.⁶¹

When, to his great surprise, Middleton received the news that England would treat independently of the United States, he at once informed both Count Nesselrode and the British ambassador that if any attempt was made to negotiate upon the territorial question without the participation of the United States, he would protest in the strongest terms.⁶²

England's excuse for not joining with the United States in this negotiation had been that the reference to colonization in the President's message of December 2, 1823, would cause difficulty in the negotiation between Russia and the United States. And yet, although "the decided tone of the President's message at the meeting of Congress was considered generally as having gone too far towards deciding the question against interference,"⁶³ Middleton found that the Russian government was as well disposed to treat with him as ever. On February 9, 1824, the first conference

⁶⁰ George Canning to Sir Charles Bagot. Jan. 7, 1824. *Proceedings of the Alaskan Boundary Tribunal*, vol. 2, p. 69.

⁶¹ Henry Middleton to J. Q. Adams. Feb. 5/17, 1824. *American State Papers*, For. Rel., vol. 5, p. 457.

⁶² Same to same. April 7/19, 1824. *Ib.*

⁶³ H. Middleton to J. Q. Adams. Feb. 5/17, 1824. *Despatches, Russia*, vol. 10, no. 34. MS., State Department Archives.

took place between Count Nesselrode and Middleton on the northwest coast question.⁶⁴

At this conference Count Nesselrode opened the negotiation by declaring that he believed it would be best to have all discussion upon abstract principles of right and upon the actual state of facts, and that they must endeavor to settle the differences which had arisen between their governments on "the basis which might be found most conformable to our *mutual interests*." Middleton stated that he was perfectly willing to accede to this, but he must reserve his right, which Nesselrode would of course retain on his part, of invoking occasionally such principles of international law and of alleging such facts as they might, respectively, deem necessary to the defense of the rights and interests of his party. Nesselrode then asked Middleton if he had proposed any project of a convention for the settlement of the disputed points. In reply Middleton presented him with two projects, the first of which was called the "State of the Question."

In this paper Middleton declared that:

"The United States, by their discovery of the mouth of the Columbia River and by their subsequent *real occupation* and continued possession of a district on the same part of the northwest coast of America, have perfected their right of sovereignty to that territory.

"By the third article of a convention with Great Britain concluded October 20, 1818, they stipulated "that any territory that might be claimed by either party on the northwest coast of America westward of the Stony Mountains together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open, for a term of ten years from that date, to all vessels, citizens and subjects, of the two powers, without prejudice to the rights of either party or of any other State."

⁶⁴ Same to same. Feb. 25 (O. S.), 1824. Proceedings of the Alaskan Boundary Tribunal, vol. 2, p. 68; Same to same. Feb. 19, 1824. American State Papers, For. Rel., vol. 5, p. 458.

a convention with Spain of February 20, 1819, the States acquired all the rights, claims and pretensions of that power to all the northwest coast lying north of the forty-second parallel of latitude. The claims of Spain are said to have rested on *prior discovery*, as far as the fifty-degree north. So far, then, as prior discovery can establish a foundation of right, the northwest coast as far as the forty-ninth degree north belongs to the United States by the transfer of the rights of Spain.

That Britain has no establishment or possession on any part of the northwest coast. She has, therefore, no right, title or pretension to any portion thereof, except such as may result from the convention with Spain concluded October 3, 1790. It is, then, evident that her claim is concurrent with those of the United States, and can only reach to the point these last may be considered to extend.

It appears, then, that Russia and England can not make any definitive arrangement without the participation of the United States, or at least going to their exclusion. Any agreement which these two powers may make will be binding on themselves, but cannot affect the rights of a third

The United States offer to Russia an article of the same tenor with that of October, 1818, with Great Britain, to be in force for the term of ten years. By offering free and unobstructed access to navigation and intercourse within the limits of their claims are indisputable, they concede much more than they obtain.

With regard to territorial claim, separate from any system of exclusion, they are willing to agree to the boundary within which the Emperor Paul had granted exclusive privileges to the Russian Company, that is to say, latitude 54° 40' N.

As the Russian government apprehends serious inconvenience from *illicit traffic* with their settlements, it may be

guarded against by stipulations similar to those in the annexed project."

This annexed project was the second paper and had been sent to Middleton by Adams in his letter of instructions of July 22, 1823. By it the agreement was to be made that the citizens and subjects of the two countries should not be disturbed or molested, either in navigating or in carrying on their fisheries in any part of the Pacific, or in landing on the coast thereof in places not already occupied, for the purpose of carrying on their commerce with the natives of the country. This privilege was to be subject to two restrictions, first, that the citizens of the United States should not land on any part of the coast actually occupied by Russian settlements, without the permission of the governor, while Russian subjects were, in like manner, to be forbidden to land without permission at any settlement of the United States on the northwest coast; and second, that on that coast or on any of the islands adjacent thereto the United States were not to make any settlements north of the fifty-fifth degree of north latitude, nor the Russians any south of that parallel. These papers Nesselrode said he would submit to the Emperor and closed the interview.⁶⁸

The second conference took place February 20 (O. S.). Poletica was present, having been joined to Nesselrode as a second imperial plenipotentiary. Middleton and Nesselrode and Poletica then exchanged their respective powers. Nesselrode presented a counter-project, consisting of a French translation of Middleton's project, with some insertions, alterations and additions. These consisted in making fifty-four degrees forty minutes instead of fifty-five degrees the line of demarcation between the spheres of America and Russian colonization, and in prohibiting the citizens of the United States from resorting "to any part of the coasts already occupied by Russian establishments, or belonging to

⁶⁸ H. Middleton to J. Q. Adams. April 7/19, 1824, and inclosures D and E. *American State Papers, For. Rel.*, vol. 5, pp. 458, 463-464.

above that line of demarcation, while reciprocally objects of Russia were not to resort, without permission, to the establishment of the United States upon the north-west "below that line. American vessels, however, were to be admitted to New Archangel. To these alterations Middleton objected and told the Russian plenipotentiaries that his instructions required that he should obtain two necessary conditions before he should agree to a new demarcation. These conditions were, first, the recognition, either spontaneous or by convention, of the maritime provisions of the ukase, and second, the adoption of the same commercial principle (or something similar) agreed upon between the United States and Great Britain in their Convention of 1818 in relation to the northwest coast; finally, these preliminaries were settled, then a territorial demarcation at fifty-five degrees might be agreed upon. Middleton replied in strong terms that he would never sign an instrument allowing American ships free admission to the Russian coast, but Nesselrode remained silent. Middleton then agreed to take the Russian counter-project under consideration.⁶⁶

A second conference was held three days later. Middleton, on his part, presented a counter-project in which he accepted the line of fifty-four degrees forty minutes as the line of demarcation, and limited the prohibition to visit the possessions of the other power, without consent, to places occupied by settlements. While he demanded that the vessels of both powers be admitted to fish and to trade with the natives of all that coast without molestation for a period of ten years from the date of the treaty. In making this concession of fifty-four degrees forty minutes instead of fifty-five degrees, Middleton admitted that he was exceeding his instructions, but that he did so because the Russian plenipotentiaries had said that they had demanded it only in order to preserve two points of the

Middleton to J. Q. Adams. April 7/19, 1824, and inclosure. American State Papers, For. Rel., vol. 5, pp. 458-459, 465.

island in which the port called Bucarelli by the Spaniards was situated. Nesselrode declared that he considered as utterly inadmissible the provision for the free admission of American vessels to all parts of the coast, including free trade with the natives. Upon Middleton's responding that nothing could be done without it, the Count replied that he would take the proposition *ad referendum*. Middleton saw that the Russian plenipotentiaries were reluctant to admit the principle of free trade in any form. In order that they might appreciate the advantage they would derive from delimitation and be willing to pay a price for it, Middleton told them that he had an alternative to offer which, leaving the line of demarcation undecided, might settle all difficulties as far as the United States were concerned. This was that they should agree that all the coast to which they respectively laid claim should be free and open to the citizens and subjects of the two nations reciprocally without prejudice to the claims of either party or of any state, for a term of ten years or until the contracting parties should come to some agreement respecting the limitation of their possessions in that region.⁶⁷

It was two weeks before another conference was held. This took place on March 8. Nesselrode said that they accepted the project which Middleton had made at the last meeting, but with the modification that Russia would allow only the fishing to be free and open, and that for a term of only five years instead of ten as Middleton had proposed, while no trade would be allowed with the natives at all. Middleton protested against any such changes in his project. He said that it would amount merely to a stipulation that the United States should enjoy, as a privilege and for a very limited period, what they were then entitled to by the law of nature, in common with all other independent nations, *i. e.*, the fisheries upon an unoccupied coast. He thereupon pre-

⁶⁷ H. Middleton to J. Q. Adams. April 7/19, 1824, and inclosures H and I. American State Papers, For. Rel., vol. 5, pp. 459, 465.

sented to the Russian plenipotentiaries a paper in which he briefly stated the weakness of Russia's territorial claims. Rather than open up the question of the legality of Russia's title to the territory, the Russian plenipotentiaries seemed to be willing to concede the provisions relative to reciprocal trade privileges, provided the trade in fire-arms and ammunition was prohibited. To this Middleton objected on the grounds that such a prohibition could not be carried out without the right of search, and that other nations might profit by it. However, he declared that as the question was new to him and entirely unprovided for in his instructions, he would take it under consideration.⁸⁸

It was some time before another conference took place, the delay being due partly to the illness of the Emperor and partly, as Middleton supposed, to give time for consultation with the directors of the Russian American Company. At length, on March 22, Poletica called upon Middleton and left with him a project of a convention. By this project the citizens and subjects of the contracting powers were to be at liberty to navigate and fish in the Pacific and to resort to the coasts at points not already occupied, for the purpose of trading with the natives. But the citizens of the United States were not "to resort to any point of the coasts already occupied by Russian establishments" without permission, and reciprocally the subjects of Russia were not to resort, without permission, "to any establishment of the United States on the northwest coast." And "that in the respective possessions" of the two powers on that coast, the United States were not to form any establishment north of fifty-four degrees forty minutes of north latitude, nor Russia any south of that parallel. However, the vessels of the two powers were to be permitted reciprocally to frequent the possessions of the two powers on the northwest coast, for fishing and trading with the natives of the country, for a term of ten

⁸⁸ H. Middleton to J. Q. Adams. April 7/19, 1824, and inclosure K. American State Papers, For. Rel., vol. 5, pp. 459-460, 465-466.

years. But the sale of fire-arms, other arms, powder and munitions of war was to be prohibited. On leaving this project Poletica told Middleton that the prohibition of a trade in arms and ammunition was a *sine qua non*, and that the Emperor wished, from views of benevolence, to add thereto all kinds of spirituous liquors. Nesselrode also informed Middleton of this by note.⁶⁹

Middleton strongly objected to any prohibition upon trade, as it appeared to him that such restrictions might be converted into a pretext for vexations upon American commerce, if seizure or confiscation were permitted, while, on the other hand, it seemed likely that all other modes of carrying the prohibition into effect would be nugatory. But as he had been told that the prohibition was a *sine qua non*, he presented at the next meeting, two days later, a project which was based upon that of Poletica's, but differed from it in that he prohibited the citizens of the United States from resorting "to any point where there is a Russian establishment" without permission, and in that he forbade absolutely the establishment of settlements by the United States north of fifty-four degrees forty minutes, and by Russia south of that parallel. In explanation of the prohibition of fire-arms, etc. (which he accepted), Middleton added that it was to be well understood that, in any case, this restriction upon trade was not to be considered to authorize, under the pretext of a contravention of the prohibition, the visits to colonies, or the detention of vessels, or the seizure of merchandise, or any vexations exercised towards the owners or crews employed in this commerce.⁷⁰

Four days later Poletica brought Middleton another counter-project which accepted all of Middleton's of March 24, except that it stated that the prohibition of fire-arms, etc.,

⁶⁹ H. Middleton to J. Q. Adams. April 7/19, 1824, and inclosure L. American State Papers, For. Rel., vol. 5, pp. 460, 466; Count Nesselrode to H. Middleton. March 20, 1824. *Ib.*, p. 466.

⁷⁰ H. Middleton to J. Q. Adams. April 7/19, 1824, and inclosure N. American State Papers, For. Rel., vol. 5, pp. 460, 467.

should not "be deemed to authorize . . . the visit, or the detention of vessels, the seizure of merchandise, or, in fine, any arbitrary measures whatsoever," etc. Middleton had used "vexations" in his project where Poletica now used "arbitrary measures," and he did not consider this to be sufficiently concise, as it left the Russian government at liberty to adopt regulations and to carry them into effect, because it could not be said that such regulations were arbitrary. Therefore at the meeting of March 31 Middleton proposed that the sale of all spirituous liquors, fire-arms, other arms, powder, and munitions of war of every kind to the natives should be prohibited, and "It is likewise stipulated that this restriction shall never serve for a pretext, nor be alleged, in any case to authorize either the search or detention of vessels, or the seizure of the merchandise, or, in fine, any measures of constraint towards the merchants or the crews who may carry on this commerce." At the same time Middleton proposed this clause: "It is nevertheless, understood that, during a term of ten years, to be counted from the signing of the present convention, the ships of the two powers, or which belong to their citizens or subjects, respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks upon the coast . . . , for the purpose of fishing and trading with the natives of the country."

In order to make these proposals acceptable to the Russian plenipotentiaries, Middleton included spirituous liquors in the list of prohibited articles. The Russians at once accepted Middleton's suggestion as to the prohibited articles, but his other proposal became the subject of a warm debate which extended over into the meetings of April 1 and 2. The Russian plenipotentiaries were exceedingly anxious to introduce into the convention a substantive stipulation,—that the privilege to trade upon the northwest coast should absolutely cease after ten years. Such a stipulation Middleton strenuously resisted in all shapes, declaring that the United States

retained a hope that their trade would become valuable and indispensable to the Russian settlements before the expiration of the period specified, and that he was not authorized to enter into any stipulation of the nature desired by the Russian envoys. After three conferences, in which this point was the principal object of discussion, the Russian plenipotentiaries agreed to adopt Middleton's article, provided that he sign with them a protocol "that the reciprocal right to trade granted by this stipulation can not be extended beyond the said term but by mutual consent." To this Middleton agreed, and the protocol was signed April 2/14, 1824. The preliminaries having thus been arranged, Middleton, Nesselrode and Poletica, on April 5/17, 1824, signed the convention, the first one to be concluded between the United States and Russia.⁷¹

The provisions of this treaty were:

Art. I. It is agreed that, in any part of the Great Ocean, commonly called the Pacific Ocean, or the South Sea, the respective citizens or subjects of the high contracting powers shall be neither disturbed nor restrained, either in navigation or in fishing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following articles.

Art. II. With a view of preventing the rights of navigation and of fishing exercised upon the Great Ocean by the citizens and subjects of the high contracting Powers from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point where there is a Russian establishment without the permission of the governor or commander; and that, reciprocally,

⁷¹ H. Middleton to J. Q. Adams. April 7/19, 1824, and inclosures P, Q, R, and S. American State Papers, For. Rel., vol. 5, pp. 460-461, 468-469.

subjects of Russia shall not resort, without permission, to any establishment of the United States upon the northwest coast.

Art. III. It is moreover agreed that, hereafter, there shall not be formed by the citizens of the United States, or under the authority of the said States, any establishment upon the northwest coast of America, nor in any of the islands adjacent, to the north of fifty-four degrees and forty minutes of north latitude; and that, in the same manner, there shall not be formed by Russian subjects, or under the authority of Russia, south of the same parallel.

Art. IV. It is, nevertheless, understood that during a term of ten years, counting from the signature of the present convention, the ships of both Powers, or which belong to their citizens or subjects, respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, bays, and creeks, upon the coast mentioned in the preceding article, for the purpose of fishing and trading with the natives of the country.

Art. V. All spirituous liquors, fire-arms, other arms, powder, and munitions of war of every kind, are always excepted from this same commerce permitted by the preceding article; and the two Powers engage, reciprocally, neither to sell, nor to permit them to be sold, to the natives by their respective citizens and subjects, nor by any person who may be under their authority. It is likewise stipulated that this restriction shall never afford a pretext, nor be advanced, in any case, to authorize either search or detention of the vessels, seizure of the merchandise, or, in fine, any measures of constraint whatever towards the merchants or the crews who may carry on this commerce; the high contracting Powers reciprocally reserving to themselves to determine upon the penalties to be incurred, and to inflict the punishments in case of the contravention of this article by their respective citizens or subjects.

Art. VI. (This article deals with the exchange of ratifications.)⁷²

The Russian American Company was much dissatisfied with this treaty, but the Russian government was well pleased. It appeared to them that their colonies were the greater gainers, since their relations to foreign states were fixed. It was article five which prohibited the sale of liquor and arms to the natives which gave them the most joy. It was considered the happy outcome of fifteen years of long protracted and difficult negotiations. They believed that the chief cause of all the disorders, quarrels and bloodshed which had heretofore prevailed in the region was now removed, and that the first solid foundation had been laid for the peaceful existence of their colonies. And the article granting to the Americans freedom of fishing and trade in the Russian possessions for ten years was also taken as a triumph of Russian diplomacy, first, because it was a "remuneration for the very considerable advantages" granted under the other stipulations, and second, because the Americans had already for many years carried on this trade and fishing, which the Russian American Company could not find means to oppose. Moreover, it would be better for the company that the Americans should carry these on by permission granted to them by Russia, in a solemn convention, as through this they would recognize that Russia had the legal right to prohibit both trade and fishing in this region, than that the Americans should carry on these trades as they had done before by a natural and indefeasible right, as it were.⁷³

The treaty was, however, a diplomatic victory for the United States. It was, first of all, a recognition by an interested party of the territorial claims of the United States upon the northwest coast. It restricted the claims of Russia to fifty-four degrees forty minutes. True, Middleton had been

⁷² American State Papers, For. Rel., vol. 5, p. 433.

⁷³ Count Nesselrode to Admiral Mordvinof. April 11, 1824. Proceedings of the Alaskan Boundary Tribunal, vol. 2, pp. 166-169.

ruled to demand the parallel of fifty-five degrees as the line of demarcation; and yet had he refused this small concession that Russia might include within her bounds the whole of an island which had already been allowed her, Middleton, in all probability, would not have been able to obtain his treaty, for it was upon this point that the Russian government broke off negotiations with Sir Charles Fox.⁷⁴ Middleton fulfilled his instructions in obtaining an article for mutual free trade for ten years similar to that made with Great Britain in 1818, and this was even more advantageous, for at its expiration all those places above fifty-four degrees forty minutes yet unoccupied by Russia would be still open and free to Americans. And in return for all this the United States conceded only two minutes of territory to which their claim was very doubtful, and a prohibition of trade in spirituous liquors and fire-arms, which prohibition they themselves were to control.

To President Monroe the treaty was very satisfactory. He considered that it was all that the United States could be asked for, and that, by entering into negotiations with Russia, the United States separately and making concessions to Russia, especially that relating to navigation, the Emperor had shown great respect for that country. He also thought that the event derived additional importance from the fact that the treaty had been concluded after the arrival at St. Petersburg of the message to Congress of December 2, 1823, which expressed sentiments so strongly adverse to the principles maintained by the Holy Alliance.⁷⁵ Under the influence of this belief Monroe said in his message of December 7, 1824, of the manner in which the negotiations of the convention of April 5/17, 1824, were invited and conducted on the part of the Emperor of Russia had been very satisfactory to the

H. Middleton to J. Q. Adams. April 7/19, 1824. *American State Papers, For. Rel.*, vol. 5, p. 461.

J. Monroe to T. Jefferson. Aug. 2, 1824, and Oct. 18, 1824. *Writings of James Monroe*, vol. 7, pp. 31-32, 42; J. Q. Adams, *Memories*, vol. 6, p. 403.

American government.⁷⁶ But the real significance of this treaty was not recognized in the United States. Whether intentionally or not, Russia by this treaty abandoned forever her policy of expansion in America.

Before the treaty was sent to the Senate for ratification, Baron Tuyl came to Secretary Adams and told him that the Russian American Company, having learned the purport of the convention, were extremely dissatisfied with it, and by means of their influence had prevailed upon his government to send him instructions upon two points. The first was that he should deliver, upon the exchange of the ratifications of the convention, an explanatory note, stating that the Russian government did not understand that the convention granted to the citizens of the United States liberty to trade on the coast of Siberia and with the Aleutian Islands. The other was to propose a modification of the convention, by which American vessels should be prohibited from trading on the northwest coast of America north of latitude fifty-seven degrees. Adams replied that a modification of the convention could not be made except by a new convention, and that the construction, as concluded, belonged to other departments of the government for which the executive had no authority to make stipulations. He added that the convention would be at once transmitted to the Senate, and that if anything affecting its construction or modifying its meaning were to be presented on the part of the Russian government before or at the exchange of ratification, it must be laid before the Senate, which might cause the defeat of the treaty. Adams advised the Baron to wait until after the convention was ratified before presenting his note in order to see how the convention worked, and he said that he was sure there would be no cause of complaint about it; if there should be, then would be the time for adjusting the construction or negotiating a modification of it. The Baron accepted this suggestion, saying that while he knew all this,

⁷⁶ Messages and Papers of the Presidents, vol. 2, p. 251.

he had only acted in obedience to his instructions. He therefore requested Adams to consider what had passed between them as if it had not taken place, to which Adams readily consented.⁷⁷

The President sent the convention to the Senate on December 13, 1824.⁷⁸ Here it met with no opposition, although the article restricting the trade with the natives was thought exceptional and it was believed that it would have no result favorable to the views of Russia so long as the British commerce on the coast was not restricted in like manner.⁷⁹ Ratifications were thereupon exchanged on January 11, 1825,⁸⁰ and on the next day the fact was proclaimed by the President.⁸¹

Before the conferences with regard to the treaty of 1824 took place Middleton undertook to carry on another negotiation. On August 13, 1823, instructions had been sent to him to propose to the Russian government an improvement in the regulation of neutral and belligerent rights in time of war. For a basis of his negotiations he was sent a copy of a draft of a convention on this subject which had been recently sent to Rush. This draft proposed the perpetual abolition of private war on the sea. It combined all the essential principles of the armed neutrality and added thereto the exemption from capture and confiscation of the merchant vessels and cargoes belonging to the subjects of belligerents. It embodied the proposal that free ships make free goods and persons, and that neutral property should be free, even though laden in an enemy's vessel. Materials used in the construction of ships were to be declared non-contraband, while the practice of impressing American sailors upon the high seas was to be abolished. Immediately upon the re-

⁷⁷ J. Q. Adams, *Memoirs*, vol. 6, pp. 435-436.

⁷⁸ *Messages and Papers of the Presidents*, vol. 2, p. 265.

⁷⁹ J. Q. Adams to H. Middleton. Jan. 29, 1825. *Instructions*, vol. 10, no. 21.

⁸⁰ J. Q. Adams, *Memoirs*, vol. 6, p. 465.

⁸¹ *American State Papers*, *For. Rel.*, vol. 5, p. 583.

ceipt of these instructions Middleton sent this project to Nesselrode, informing him that the American government not only wished to conclude a treaty with the Emperor upon the principles stated in it, but also hoped "to be able to engage him to use his influence for obtaining the accession of other maritime powers."⁸²

It was not until two months later that Nesselrode, then on the eve of settling the northwest coast question, answered this overture. He said that the principles which the United States invited the Emperor to recognize and sanction would not be of great utility, except in so far as they would have a general application, and that it could be only by the general agreement of all the other powers that those measures could produce the intended effect. But as the Emperor sympathized with the wishes of the American government, "as soon as the Powers whose concert he considers as indispensable should have shown the same disposition, he will not be wanting in authorizing his ministers to discuss the different articles of an act which would be a crown of glory to modern diplomacy."⁸³

⁸² J. Q. Adams to Richard Rush. July 28, 1823. American State Papers, For. Rel., vol. 5, pp. 529-533; J. Q. Adams to H. Middleton. Aug. 13, 1823. Instructions, vol. 10, no. 19; H. Middleton to Count Nesselrode. Dec. 5, 1823. Despatches, Russia, vol. 10, no. 34, inclosure A. MSS., State Department Archives.

⁸³ Count Nesselrode to H. Middleton. Feb. 1, 1824. Despatches, Russia, vol. 10, no. 34, inclosure B. MSS., State Department Archives.

CONCLUSION.

In the foregoing narrative it has been shown, among other things,

1. That Dana's return from Russia without being received at the Russian court was not due to the hostility of the Russian government ;

2. That Short never went any farther than France on his mission ;

3. That the beginning of formal diplomatic relations between the two countries was simultaneous and voluntary on the part of each country, yet due to the condition of European affairs ;

4. That the Russian offer of mediation in the war of 1812 was made to prevent an alliance between the United States and France, and that it was not made to Great Britain at the same time as to the United States, as was claimed by Russia ;

5. That, even after England's refusal of the Russian mediation, the United States endeavored to secure the influence of the Emperor of Russia in moderating the demands of England ;

6. That the actions of Daschkoff and of the Russian government in the Kosloff affair were a *casus belli* which the firmness of the American government avoided and turned into a triumph for itself ;

7. That, as a consequence of the Kosloff and Harris affairs, Russia accepted the principle that there was no code of consular immunities ;

8. That Russia invited the United States to accede to the Holy Alliance in order to prevent her from acting with Great Britain and from acknowledging the independence of the Spanish-American colonies ;

9. That Russia used her influence with Spain to secure the ratification of the Florida treaty ;

10. That Monroe's message of December 2, 1823, did not offend Russia ;

11. That Russia was ready to treat with the United States on the question of the ukase of September 4/16, 1821, before she was ready to do so with England ;

12. That the treaty of 1824 was highly satisfactory to the United States ;

13. That up to 1815 the United States looked to Russia for protection against the aggressions of European nations, and from 1815 to the signature of the treaty of 1824 desired to be on the friendliest terms with her, but never, except at the time of Dana's mission, to enter into any political alliance with her ;

14. That, from the time of Dana's mission to that of Campbell, a commercial treaty with Russia was eagerly sought by the American government, yet the United States would not accept one which carried with it any political engagements ;

15. That, from the period of the Revolution, the United States wished to secure from Russia a recognition of more favorable neutral rights, and endeavored to obtain this recognition both by having it inserted in treaties of commerce and by separate negotiations ;

16. That, from the beginning of formal diplomatic relations, it was the settled policy of Russia to cultivate the friendship of the United States in order to secure her as an ally against Great Britain.

AUTHORITIES.

There is no work which fully covers the period of this study. For different negotiations the best authorities are W. H. Trescot, *The Diplomacy of the Revolution*. N. Y., 1852; Theodore Lyman, *The Diplomacy of the United States, being an Account of the Foreign Relations of the Country, from the first Treaty with France*. 2d ed., 2 vols., Boston, 1828; Henry Adams, *History of the United States*. 9 vols. N. Y., 1889-91. The works of Lyman and Trescot are excellent, considering the sources available to them. Lyman discusses the claims of the United States to the northwest coast at the time of the signature of the treaty of 1824, but these claims did not enter into the negotiations. Adams's account of the Russian mediation is very suggestive, but not exhaustive nor quite accurate. Other authorities and collections of printed sources are fully quoted in the foot-notes. The extent of the manuscript sources used in the preparation of this study will be indicated by the titles of the collections given below.

MANUSCRIPT SOURCES.

Bancroft Manuscripts. Lenox Library, New York.
James A. Bayard's Letter-book. Lenox Library, New York.
Diplomatic Archives of the Department of State, Washington, D. C.
Jefferson Papers. Library of Congress, Washington, D. C.
Monroe Papers. Library of Congress, Washington, D. C.
Pickering Papers. Massachusetts Historical Society, Boston, Mass.
William Short's Letters. Library of Congress, Washington, D. C.
Sparks Manuscripts. Harvard College Library, Cambridge, Mass.

**STATE RIGHTS AND POLITICAL PARTIES
IN NORTH CAROLINA—1776-1861**

SERIES XXIV

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J. M. VINCENT
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Editors

STATE RIGHTS AND POLITICAL PARTIES
IN NORTH CAROLINA—1776-1861

BY
HENRY MCGILBERT WAGSTAFF, PH.D.

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CONTENTS.

CHAPTER I.

INDEPENDENT NORTH CAROLINA: UNION.

Parties Emerging from the Revolution.....	9
Attitude of Parties toward the Articles of Confederation.....	14
Spirit of Particularism.....	15
Neglect of the Government of the Confederation.....	15
Call for the Annapolis Trade Convention.....	16
The Philadelphia Constitutional Convention, 1787.....	17
Composition of North Carolina's Delegation.....	17
Fight for the Adoption of the Federal Constitution.....	21
The Hillsboro Convention of 1788: Results.....	26
Willie Jones' Plan of Action.....	26
Change of Sentiment Favorable to the Constitution, 1789.....	27
Petitions for Second Convention.....	27
Ratification Effected, November 16, 1789.....	30
Spirit of the Ratification.....	31

CHAPTER II.

A HALF-CENTURY UNDER THE CONSTITUTION.

The Attitude of North Carolina toward the New Government..	32
Adjustment to New Conditions.....	32
Opposition to Hamilton's Financial Plans.....	33
General Discontent over the Excise Laws.....	34
Reaction toward Anti-Federalism.....	35
Iredell and the Chisholm-Georgia Case.....	35
Governor Wm. R. Davie and the Alien and Sedition Laws.....	37
Attitude of North Carolina toward the Virginia-Kentucky Resolutions	37
The Federalist Leaders.....	38
The State Rights Party: Nathaniel Macon, Leader.....	39
War of 1812: North Carolina Pro-Administration.....	39
Missouri Compromise in 1820: Newspapers.....	40
Nathaniel Macon and Montfort Stokes.....	42
Presidential Election of 1820: Sectional Parties in the State....	44
Parties in 1828: the Tariff of Abominations.....	48
The Attitude of North Carolina toward Nullification.....	50

CHAPTER III.

WHIG SUPREMACY: 1835-1850.

State Rights Principles Preserved.....	60
Difficulty of the Whig Position.....	69
The Texas Question.....	70
Agreement of Whigs and Democrats.....	70
State Whig Leaders.....	72

President Tyler and the Bank.....	73
Attitude toward the War with Mexico.....	77
Both North Carolina Parties Condemned the Wilmot Proviso..	78

CHAPTER IV.

SLAVERY AGITATION: 1850-1860.

Slavery in the Territories.....	81
Legislative Attitude in North Carolina.....	81
Growth of Particularistic Tendencies.....	82
Compromise Measures of 1850.....	83
State Parties, 1850-1854.....	83
Kansas-Nebraska Bill and its Effect on North Carolina Politics.	90
Meeting of the Governors in Raleigh, 1856.....	93
The Rise of the American or Know Nothing Party.....	94
Presidential Election of 1856.....	94
Dred Scott Decision.....	96
Party Platforms, 1857 and 1858.....	98
John W. Ellis and W. W. Holden.....	99
John Brown's Raid: Public Opinion.....	104
Hinton R. Helper's <i>Impending Crisis</i>	106
Congressional Speakership Contest: Gilmer.....	107
The Workingmen's Association.....	109
Slavery Taxation in North Carolina.....	110
Struggle of Parties in 1860: Issues Local.....	111
Presidential Election in 1860.....	114
Radicalism of the Democratic Leaders.....	116
State Acquiescence in the Defeat of 1860.....	118

CHAPTER V.

SECESSION.

Newspaper Advice to the People.....	121
Revival of the Old Whig Party.....	122
Complexion of the North Carolina Legislature.....	123
Governor Ellis' Message.....	123
Action of the Legislature.....	124
Editor Holden Ostracized by the Democrats.....	126
Attitude toward South Carolina's Action of December 20, 1860.	130
First Convention Measure.....	132
Excitement of January, 1861.....	132
Result of the Convention Election of Feb. 28, 1861.....	135
The Peace Conference: North Carolina's Delegation.....	137
The Goldsboro Convention: Results.....	141
Excitement after Fort Sumter.....	145
Call for the Second Convention.....	149
Secessionists and Revolutionists.....	150
Secession, May 20, 1861.....	152

PREFACE.

This study was undertaken with the earnest desire to make some contribution, however slight, to the history of the native state of the writer. The political tendencies of North Carolinians between the War of Independence and the War of Secession have been set forth with the clearness with which the writer has been able to discern them. It is hoped that the monograph will serve as one block in the edifice which some future historian will erect when neither memory nor tradition can warp the truth in the story of southern secession.

A friend of the writer, Dr. John P. Hollis of South Carolina, now in the Bureau of Corporations, Washington, D. C., suggested the subject of the study. Grateful acknowledgment and thanks are especially due to Associate Professor James Curtis Ballagh, of the Johns Hopkins University, both for a careful and painstaking reading of the manuscript and for many helpful suggestions and criticisms. The kindly interest of Professor John Martin Vincent, Director of the Department of History at the Johns Hopkins University, has been very helpful. Miss Mary Theresa Dallam of Baltimore kindly read the manuscript and aided in corrections. The writer wishes further to express his appreciation of the courtesy and unfailing patience with which Mr. Miles O. Sherrill, North Carolina State Librarian, placed the resources of the Library at his command and added much to the pleasure of his work in Raleigh.

H. M. WAGSTAFF.

BALTIMORE, MARYLAND, 1906.

STATE RIGHTS AND POLITICAL PARTIES IN NORTH CAROLINA: 1776-1861.

CHAPTER I.

FIRST YEARS OF INDEPENDENCE: UNION.

In April, 1775, the threatening aspect of the political situation in the province of North Carolina caused Josiah Martin, the royal governor, to take refuge under the guns of a British man-of-war lying in the Cape Fear River. From this date North Carolina was for one year and a half without a constitution. Governmental authority was exercised during this period by a provincial council acting under the authority of a provincial congress which had convened soon after the governor's flight. At the call of the provincial council a second congress met in April, 1776.¹ Together with its duty of providing ways and means for prosecuting the war, this body was expected to form a constitution. Though two parties were rapidly taking form among the patriots upon the subject of the constitution, public opinion was not yet clearly expressed in principles.

Those who inclined toward a government of democratic type, with every department subject to the will of the people, gradually gathered into one camp under the leadership of Willie Jones. Others counseled conservatism in departing from old forms and wished the constitution to provide a government further removed from popular impulse.² The conservatives recognized Samuel Johnston as the chief exponent of their principles. The relative strength of these two parties

¹ Journal of this congress is in N. C. Colonial Records, X, 164-220.

² Cf. Jo. Seawall Jones, Defence of North Carolina, 276.

in the April congress is unknown, but neither was fully formed and ready for action. "Certain resolutions proposed as a foundation for a temporary civil constitution" were deferred from time to time³ without their contents being spread upon the journal. No action was had beyond this and the matter was left over for a future congress. But the members had been unanimous in voting to instruct the delegates of the colony in the Continental Congress to concur with the delegates of the other colonies in a declaration of independence.⁴ Three months later the Philadelphia Declaration reached Halifax, then the seat of government in North Carolina, and was publicly read to a very large assembly of patriots gathered for the interesting ceremony.⁵

A third congress was now called to meet in November and form a constitution for the independent state. The election of delegates to this congress developed warm partisanship between the radical and conservative factions.⁶ The latter were distanced by their opponents. Samuel Johnston, the most prominent conservative leader, was defeated in his county for a seat in the congress and attended only as a lobbyist. Willie Jones was chosen as borough member from Halifax, the seat of the congress; each of the thirty-five counties sent up five delegates and nine boroughs sent one delegate each.

The Halifax Congress organized on the twelfth of November by the choice of Richard Caswell as president. Caswell was fresh from the scene of his victory⁷ over the Highlanders at Moore's Creek in the Cape Fear county and his popularity was attested by the unanimous vote he received for presiding officer.⁸ On the second day a committee was appointed to draft a bill of rights and a constitution.

³ Journal, N. C. Colonial Records, X, 545, 547.

⁴ Ibid., X, 512.

⁵ Jones, Defence of North Carolina, 269.

⁶ Ibid., 283.

⁷ The battle of Moore's Creek was fought in Feb., 1776, between the Revolutionary provincial forces under the command of Caswell and the Scotch Highlanders who had risen in favor of King George.

⁸ Journal of the Halifax Congress, N. C. Col. Rec., X, 916.

Willie Jones was on this committee as well as the second leading radical in the state, Thomas Person. Popularizing influences early manifested themselves in the congress, and a motion was passed⁹ that for the future all questions should be determined by voice instead of by counties and towns, as formerly. An oath of allegiance to the "independent state of North Carolina and to the Powers and Authorities which may be established for the good government thereof"¹⁰ was provided for enforcement upon citizens lukewarm to the revolution. The budding spirit of state nationalism had its expression in the appeal of the congress to the law of nations in its demand upon Massachusetts for the return of a North Carolina brig, laden with salt, wine, and Jesuits' bark from Cadiz, Spain, seized by a privateer out of Boston.¹¹ The work of constitution-making went on amid such characteristically democratic proceedings as: "On motion, ordered that sundry horses and a chariot, the property of the late Governor Martin, be sold for ready money on Monday next at 4 o'clock in the afternoon, in the town of Halifax, and that the proceeds of sale be paid into the Treasury of this Province."¹²

The bill of rights brought forward by the committee consisted of twenty-five articles which enumerated the usual guarantees of English liberty, such as freedom of conscience, freedom of the press, trial by jury, etc., and declared the people the sole and exclusive source of government, enjoining a frequent recurrence to fundamental principles.

It was in the constitutional document proper that the popular party purposed to enthrone democracy, yet the completed instrument indicated the extremely mild form of radicalism prevalent at that date. Many features indeed showed the evidences of compromise. Legislative authority was vested in a biennial assembly annually elected by the people under certain restrictions. The judicial and

⁹ Journal, N. C. Colonial Rec., X, 917.

¹⁰ Journal, N. C. Colonial Rec., X, 920.

¹¹ Ibid., 996.

¹² Ibid., 920.

executive branches of the government were to an extent subordinated to the legislative branch through the power given the assembly to elect both the governor and the judges of the various courts. Likewise nearly all other officers,¹³ including an attorney-general, treasurer, councillors of state, generals and field officers of the militia and of the regular army, were to be elected by the two houses.¹⁴ The theory was that through annual elections the assembly would be directly under the control of the people and would reflect their will, but the franchise was so hedged about that even this tempered concession to democracy was partially negated.

A state senator had to possess three hundred acres in fee. To vote for a senator a freehold qualification of fifty acres was necessary; to vote for a commoner only the payment of public taxes was required.¹⁵ Evidently there was small reason for Johnston's querulous complaint. "I am in great pain for the honor of the province," he wrote. "Every one who has the least pretensions to be a gentleman is suspected and borne down *per ignobile vulgus*—a set of men without reading, experience or principle to govern them."¹⁶ The constitution, though certainly not admirable in many respects, bore the impress of sincerity; and though conservative according to present day standards, it satisfied the demands of the radical party of 1776.

There was much need, however, for compromise between the two Whig factions, and stability in the government was essential to the success of the Revolutionary party. The internal strife with the Tories was perhaps more bitter in North Carolina than in any other of the American colonies.

¹³ N. C. Col. Rec., X, 1003. This bill of rights was declared a part of the constitution by the 44th Article of the later document.

¹⁴ The justices of the peace in the respective counties were likewise to be classed by the assembly and commissioned by the governor (Art. 33). Though not provided in the constitution the county sheriffs were also elected by the assembly.

¹⁵ N. C. Constitution of 1776, sections VII and VIII, Col Rec., X, 1006.

¹⁶ N. C. Col. Rec., X, 1041. Johnston to Jas. Iredell, Dec. 9, 1776.

There were two main causes for this besides the natural and usually wholesome difference of opinion upon political questions. First, the population of North Carolina, viewed as a whole, was composed of non-homogeneous groups. Second, a long period of pre-Revolutionary mismanagement had destroyed the faith of the frontier settlers in the wisdom and justice of the rule of the older, more populous, and wealthier seaboard. The overflow from the older seaboard settlements made up a back-country population of hardy English stock which had been unable, up to the Revolutionary period, to induce the eastern or seaboard region to extend to them any share in the provincial government.

The first result of this sectional divergence was the Regulators' War of 1769-1771, which grew directly out of oppressive taxation and an unjust judicial system applied by the east to the back-country.¹⁷ In essence it was a rebellion of the new west against the old east and eastern misrule. The Regulators, who had assumed the administration of justice in the central and western counties according to their own ideas, were crushed by eastern bayonets under the command of the royal governor, William Tryon. Hence, when the Revolutionary War broke out it was the east rather than the English that many of the old Regulators were ready to fight. Their coalition with the great body of Highlanders in the Cape Fear region, who were monarchists by mental inheritance as well as by moral conviction, tore the embryo state asunder and gave a determined and bloody character to the civil strife carried on throughout the Revolutionary period. The fires of internecine warfare burned brightly in the middle counties¹⁸ even while the tacit truce existed from 1781 to 1784 between the Continental and British forces at New York and Charleston. The battle of Moore's Creek in February, 1776, between the state Revolutionary troops and the combined forces of the High-

¹⁷ For a full treatment of the Regulators' War and its causes see Haywood, Tryon in North Carolina. Also a good sketch in Saunders' Introduction to Vol. VIII of N. C. Col. Records.

¹⁸ Washington's Works, Washington to La Fayette, Jan. 2, 1782.

landers and the Regulators, had begun the discomfiture of the Loyalists in North Carolina, and the defeat of Ferguson at King's Mountain in 1780 had completed it.¹⁹

The struggle between the Loyalists and the patriots was characterized by such personal bitterness that even after independence of England was assured the memory of past sufferings and hatred could not be wiped out. The bitterness rather deepened for a while against the defeated faction. The General Assembly in 1782 passed an act²⁰ of wholesale confiscation of the property of a long list of Loyalists, beginning with Governors Tryon and Martin and including all who were prominent as royal sympathizers. The treaty of peace between England and the United States in 1784 was careful to provide for rights of return to all fugitive Loyalists and for a restitution of their property. But North Carolina was in no more conciliatory mood toward the defeated Tories in 1784 than in 1782. The victors were unwilling to give up the large amount of confiscated property.²¹ The radicals, headed by Jones and now in a large majority, were too conscious of the state's individual sovereignty and too proud of its newly won independence to defer materially to the obligations incurred by the Congress of the loosely jointed Confederation.

A few only were sufficiently imbued with ideas of international honor to enable them to rise above factional hatred. These belonged mainly to the party of Johnston and represented the conservative minority. Among them were Johnston, James Iredell, Alexander Maclaine, Wm. R. Davie and Wm. Hooper—each a man of political energy. They watched with jealous care the growth of their party sentiment and deprecated the evident tendency of the radical majority to individualize the state and place its interests paramount to those of the Confederation. It was the conservative party, therefore, which received with eagerness the

¹⁹ See Autobiography of Edmund Fanning, the notorious N. C. Tory leader.

²⁰ Laws of North Carolina, 1782, 418.

²¹ McRee, II, 93, Iredell to Pierce Butler.

idea of a reform in the Articles of Confederation.²² Anarchy not only in international obligations but in finance and in justice, and a general failure to realize the blessings that independence seemed to promise had succeeded the treaty of peace. The conservatives in North Carolina furnished a full share of the sentiment which was growing strong throughout the country, and demanded a closer union of the states as a means of ending the confused condition into which they were falling.

But with the majority in North Carolina the movement for creating an efficient union gathered force slowly. The party in power by no means despaired of the state or showed signs of a loss of faith in independent state democracy. Willie Jones was a personal friend of Thomas Jefferson and possessed even more democratic ideals than the Virginia leader. The fundamental key-note of Jones' position was an independent state democracy administered along fraternal lines and with just so much connection with the other states as to insure peace between them. This spirit of particularism Jones carefully fostered in his party, the members of which, for a number of years, accepted his views as reenacted law.

The general result of this state rights or particularistic spirit was an almost total lack of interest by the majority party in the affairs of the Confederation. State politics absorbed all its interests. Delegates were chosen to Congress but their seats were for the most part vacant. Throughout the year 1786 the chairman of Congress continually urged upon Governor Caswell the importance of having the state represented,²³ and the governor as continually urged the representatives to go forward, but it was not until June of that year that the first North Carolina delegate arrived in New York. Three delegates arrived in that month but almost immediately sought to be relieved by

²² Maclaine to Will Hooper, N. C. State Records, XVI, 944.

²³ N. C. State Records, XVIII, 515, 659, et. seq.

other delegates who had not yet attended at all.²⁴ The idea prevailed that there should be rotation among the state delegates in the disagreeable task of attending Congress. In December, 1786, the state was again totally unrepresented. The lack of sufficient remuneration and the slow methods of transportation, as well as the general want of interest in Confederation affairs, increased the disinclination to serve in Congress. The salaries of the North Carolina delegates were sixty-four pounds each per month, paid by warrants on the state treasury in depreciated state paper currency. The depleted state of the treasury often rendered this difficult of collection.²⁵ But, despite the lack of interest manifested by North Carolina and by members of the other states, the American Confederation was now on the eve of a marvellous political change, a change the more wonderful in that it was not generally demanded by the thirteen independent sovereignties affected.

In February, 1786, Governor Caswell received the resolutions of Virginia respecting the appointment of commissioners to meet at Annapolis the following September for the purpose of taking into consideration the trade of the United States and to report on some method of securing unity of action and harmony between their jangling interests. The Assembly not being in session Governor Caswell, by the advice of his council, appointed five commissioners²⁶ to attend at the time, place, and for the purpose named. Caswell, who stood in politics midway between the radicals and the conservatives, showed an earnest desire that the appointees should attend and urged them to do so.²⁷ Only one of the number, however, Hugh Williamson, made an effort to be present. After some delay by weather and bad travel he reached Annapolis on the fourteenth of September, the day the Convention adjourned.

²⁴ Timothy Bloodworth to Gov. Caswell, Sept. 4, 1786, N. C. Records, XVIII, 724, and Chas. Johnston to Caswell, 773.

²⁵ N. C. Records, XVIII, 309. Report of Legislative Committee.

²⁶ N. C., State Records, XVIII, 650.

²⁷ Ibid., XVIII, 682. Letters to the Commissioners.

Though not having effected its immediate purpose of regulating interstate trade, the Annapolis Convention served a larger purpose in its recommendations to Congress to call a constitutional convention. Acting upon this recommendation, Congress, within the same month, invited the thirteen states to send delegates to Philadelphia in May, 1787, for the purpose of providing remedies for the weakness of the existing Union.

The General Assembly of North Carolina on the eighteenth of November responded by the appointment of a delegation of five. As named by the Assembly the delegation consisted of Willie Jones, Alexander Martin, Richard Dobbs Spaight, William R. Davie, and Governor Caswell. It was understood that three of these,²⁸ Jones, Martin, and Caswell, were state rights men. Spaight and Davie were avowedly favorable to the idea of greatly strengthening the federal government.²⁹ The preamble to the act³⁰ of appointment, however, embodied the sentiments of the conservatives and seems to have been due to their exertions. Perhaps it was on this account as much as for his lack of sympathy with the proposal to strengthen the Union at the expense of the privileges of the states that Jones at once declined to serve on the delegation. The governor, so empowered by the act, filled the vacancy by the appointment of Hugh Williamson, and also appointed William Blount in his own stead.³¹ Both Williamson and Blount classed as conservatives, hence the complexion of the delegation was entirely changed. Only one radical, ex-Governor Martin, remained among the whole number of five composing the commission.

When the Constitutional Convention began regular sessions at Philadelphia on the twenty-fifth of May, 1787, with George Washington as president, only one of North Carolina's delegation, William R. Davie, had arrived. The remaining members, however, appeared soon after organiza-

²⁸ McRee, II, 151. Iredell to Mrs. Iredell, Sept. 30, 1786.

²⁹ Ibid., II, 168, Spaight to Iredell.

³⁰ Public Acts of N. C., 1786, 412.

³¹ N. C. State Records, XX, 637, 683.

tion. Great unanimity prevailed among the five throughout the period of the Convention, and Martin acted with his colleagues apparently without reference to party affiliation. The delegates seemed conscious of the importance of the crisis and its probable influence upon the destiny of America. On the fourteenth of June the commission wrote³² to Governor Caswell: "A very large field presents to our view, without a single straight or eligible road that has been trodden by the feet of nations. A union of Sovereign States, preserving their civil liberties and connected by such ties as to preserve permanent and effective Governments . . . is a circumstance that has not occurred in the history of man." The tone of this whole letter shows conclusively that no thought had ever occurred to the delegates that North Carolina would divest herself of sovereignty in the process of union with the other states.

The injunction of secrecy laid by the Convention upon itself prevented members from keeping their states informed as to the progress of the Convention's labors. But a correspondence kept up between the North Carolina delegates and prominent men at home enabled the delegates to judge the temper of the state. Governor Caswell wrote, July 26, to Spaight: "From the hint you threw out in your first letter I am induced to think that the plan of a National Parliament and Supreme Executive, with adequate powers to the Government of the Union, will be more suitable to our situation than any other; but I should wish also an independent judicial department to decide any contest that may happen between the United States and individual states, and between one state and another."³³ Davie wrote James Iredell, the ablest advocate of North Carolina, to inquire as to how far the introduction of judicial powers, derived from Congress, would be politic and practicable in the state.³⁴ As we shall see later, the operation of a federal

³² N. C. State Records, XX, 323.

³³ N. C. Records XX, 752. From Executive Letter-Book.

³⁴ McRee, *Life and Correspondence of James Iredell*, II, 161.

judiciary was the feature of the Constitution most dreaded by the people of North Carolina.

In the Convention North Carolina, as one of the largest states, naturally used her vote to preserve this advantage. Her delegation from the first demanded representation in proportion to population in both House and Senate, but finally agreed to equality in the latter on condition that money bills should originate in the former. When the question of the method of choosing Senators came up Davie insisted on their election by state legislatures.³⁵ He brought the remainder of the delegation to this view, and cast the vote of the state for that method in opposition to the plan, supported by Massachusetts, Virginia, and South Carolina, of election by the House from nominations made by the state legislatures. In the discussions upon this topic Mr. Davie clearly indicated his views as to the nature of the government in process of formation.³⁶ It was, he said, partly federal and partly national: "It ought in some respects to operate on the states, in others on the people." Alexander Martin said: "United America must have one general interest to be a nation, at the same time preserving the particular interests of the states."³⁷

Naturally North Carolina's vote in each instance³⁸ was cast in support of the southern demand that at least three-fifths of the slaves should be included in the apportionment of Representatives in the House. In this connection Davie pointed out that North Carolina would never confederate on any terms that did not rate the blacks at three-fifths. "If the Eastern States meant, therefore," he said, "to exclude them altogether, the business was at an end."³⁹ Wil-

³⁵ Madison Papers, Supplementary to Elliot's Debates on the Federal Constitution, V, 265.

³⁶ Ibid., V, 265, 281.

³⁷ N. C. Records, XX, 753. Martin to Governor Caswell. With Martin, however, the political pendulum had swung so far away from particularism that events were soon to prove that he had lost the confidence of his party.

³⁸ Madison Papers, Supplementary to Elliot's Debates, V, 301, 471.

³⁹ Ibid., 303.

Williamson held the same view.⁴⁰ The North Carolina delegation were lukewarm as to the continuation of the slave-trade but voted with South Carolina and Georgia, apparently⁴¹ from a fear that these states would reject the Constitution if the trade was abolished at once.

In the apportionment of Representatives in the lower branch of Congress the Convention allotted only five members to North Carolina. This number just equalled one-thirteenth of the whole number to compose the first Congress. The state's share of the debt of the Confederation had in no year been rated as high as one-thirteenth of the total; therefore, lest a present increase in the apportioned number of Representatives should mean also a corresponding increase in the state's share of the common debt, the delegates from North Carolina contented themselves with the number assigned until the new apportionment.⁴² In 1790 a general census was to be taken, and thereafter 30,000 of population, including three-fifths of the slaves, should be the unit of representation.

When the Convention finished its labors at Philadelphia three members only signed the Constitution for North Carolina, one⁴³ of these doing so with the expressed reservation that the action did not bind him to the support of the instrument in his own state. Dissension had broken out afresh among the delegates from the various states at the very last moment. Many expressed themselves as dissatisfied with the final result. Davie and Martin had returned home to meet business engagements just before the Constitution came from the committee in completed form, but Davie would certainly have signed and Martin very probably.

While the report of the Philadelphia Convention was still in the hands of Congress, North Carolina held her annual election for members of the General Assembly. It was

⁴⁰ Madison Papers, Supplementary to Elliot's Debates, V, 296.

⁴¹ Ibid., 460. Speech of Williamson.

⁴² N. C. State Records, XX, 778. The Delegates to Governor Caswell.

⁴³ Wm. Blount.

felt that this election was the preliminary skirmish of the war to be waged over the adoption of the federal constitution, hence an unusual degree of interest was awakened forthwith. The conservatives, now beginning to call themselves federal men, made strenuous efforts to control the approaching Assembly. They were so far successful that when the Assembly met in November they were able on joint ballot to elect Samuel Johnston governor and to call a state convention to meet at Hillsboro in the following July to pass upon the Constitution. At the beginning of the year Johnston was inducted into office with great enthusiasm, his election appearing to the federalists as an augury of success for the Constitution.⁴⁴ Others, however, were not deceived as to the shoals ahead.⁴⁵ The radical leaders, now anti-federalists, aroused themselves to the greatest activity, determined to secure an overwhelming majority in the convention. Willie Jones began early in 1788 to marshal his forces. Residing at Halifax on the Roanoke, he personally directed the campaign in the eastern and northeastern sections of the state. Able lieutenants directed it elsewhere. Timothy Bloodworth, a blacksmith, led the party in the southern or Wilmington district; David Calwell, a pure and patriotic Presbyterian divine, had a large influence in the central counties, and that of Judge Samuel Spencer and Major Joseph McDonnell, of King's Mountain fame, was the most prominent in the west.

The party cue was given by Jones at Halifax.⁴⁶ The federal judiciary, he said, would play havoc with the authority of the state's courts; the poor were to be ruined by money collections and federal taxation; there was no provision for freedom of conscience. All these ideas, and others of like tenor, were potent arguments to the average North Carolinian against surrendering his dearly bought liberties to an untried form of government. The state judiciary,

⁴⁴ Davie to Iredell, McRee, II, 217.

⁴⁵ MacLaine to Iredell, Dec. 25, 1787, McRee, II, 183.

⁴⁶ McRee, II, 217. Davie to Iredell, outlining Jones' position. Davie was neighbor to Jones at Halifax.

from the first, was practically unanimous in opposition to the Constitution.⁴⁷ Party lines were closely drawn. On account of his compliant attitude at Philadelphia Alexander Martin was now rejected by his former constituents. The western country generally was decidedly opposed to the Constitution; the Cape Fear region was generally favorable; and the eastern country, where all the federal leaders resided, was closely contested. In Dobbs, an eastern county, the federalists, finding that they were in danger of losing the election, raised a riot, put out the candles, destroyed the books and knocked to pieces the ballot-boxes.⁴⁸ Generally, however, the elections took place without fraud or violence and were for the most part favorable to the anti-federalists.

Absolute and final rejection of the Federal Constitution seemed to be the first plan of the North Carolina anti-federal leaders. Before the Hillsboro convention met, however, ten states, among them Virginia, had ratified the Constitution. Jones, therefore, announced⁴⁹ his purpose of procuring rejection in order to give weight to the amendments which the states were preparing. The federalists redoubled their efforts. They believed now that the convention would have an issue favorable to the Constitution despite the anti-federal election successes.⁵⁰ Their faith was grounded on the assumption that the weight of the decision of the ten states, which had already secured the new form of government, would be a moral force sufficiently strong to induce compliance by North Carolina. Iredell issued a strongly written pamphlet⁵¹ in which he answered the objections to the Constitution made by Mason of Virginia. A second pamphlet,⁵²

⁴⁷ McRee, II, 183, Maclaine to Iredell.

⁴⁸ McRee, II, 221. Witherspoon to Iredell.

⁴⁹ Ibid., II, 230. Davie to Iredell, July 9, 1788.

⁵⁰ McRee, II, 341, Hooper to Iredell.

⁵¹ This pamphlet was published under the pseudonym of "Marcus." It is republished in McRee, II, 186-215.

⁵² McRee, in his *Life and Correspondence of James Iredell*, II, 232, makes the following characterization of Jones, which, to the writer, seems peculiarly fitting. "Willie Jones, of Halifax, was the most influential politician in the State: ultra-democratic in theory,

the joint product of the pens of Iredell and Davie, appeared a little later. In this the authors strove to meet the popular objections to a federal judiciary and to the absence in the Constitution of a guarantee that the states retained all the powers not delegated by them to the federal government.

The convention, consisting of two hundred and eighty-four members, met at Hillsboro, July 21, 1788. The prominent federalists present were Governor Johnston, James Iredell, William R. Davie, R. D. Spaight, and Alexander Maclaine. Counterbalancing these on the anti-federal side were Willie Jones, Timothy Bloodworth, David Calwell, Judge Samuel Spencer, and Joseph McDowell. Out of deference to his office the anti-federalists made no objection to the choice of Governor Johnston as president, his election being by unanimous vote. The federalists, conscious that they were greatly in the minority, nevertheless were not without hope that during the debates to follow a sufficient number of anti-federalists would be brought over to ratification by argument and by the late course of events in the other states.

Despite the size of his majority, Jones made a tactical error immediately after the convention had been organized. Alleging that every member's mind was made up, he moved,

he was aristocratic in habits, tastes, pursuits, and prejudices: he lived sumptuously, and wore fine linen; he raced, hunted, and played cards; he was proud of his wealth and social position, and fastidious in the selection of associates for his family. A patriot in the Revolution, he was now (1788) the acknowledged head of a great party. He was jealous of his authority and prompt to meet any attempt to undermine his power. His knowledge of human nature was consummate; and in the arts of insinuation he was unrivalled. . . . Though generally relentless and uncompromising as a partisan, he had a generous heart and on more than one occasion, gave signal proof that he could soar above the murky atmosphere of party. He was a loving and cherished disciple of Jefferson, and was often taunted with his subserviency to Virginia 'abstractions.' He seldom shared in the discussions (on the floor of the convention). His time of action was chiefly during the hours of adjournment: Then it was that he stimulated the passions, aroused the suspicions, or moderated the ardor of his followers: then it was that, smoking his pipe, and chatting of crops, ploughs, stock, and dogs, he stole his way into the hearts of honest farmers and erected there thrones for himself."

in the interest of frugality and economy of the public funds, that the question upon the Constitution be put at once. He receded from this position, however, the moment it became evident that a majority desired to hear the Constitution discussed. His power reasserted itself in influencing his followers against entering into the debate. The floor of the convention was left to the advocates of the Constitution, the anti-federalists apparently constituting themselves into a jury before which that instrument was on trial. Again and again the federalists challenged them to debate the portions of the Constitution which, outside of the convention, had been declared objectionable.⁵³ Perseverance in this course finally drew the anti-federalists into debate and developed their position.

Their first objection was made to the caption "We, the people," with which the Constitution begins. Joseph Taylor, a decided state rights member, said: "*We, the people*, is surely an assumed power. . . . Had it said, *We the States*, there would have been a federal intention in it. But, sir, it is clear that a consolidation is intended. Will any gentleman say that a consolidated government will answer this country? It is too large. . . . We see plainly that men who come from New England are different from us. They are ignorant of our situation; they do not know the state of our country. They cannot with safety legislate for us."⁵⁴ Judge Spencer said: "The States (under the proposed constitution) do not act in their political capacities, but the government is prepared for individuals. . . . There ought, therefore, to be a bill of rights."⁵⁵ The federalists' reply to this argument was that in the Constitution all powers not given up by the states to our general government were retained by the respective states.

Indeed, on the question of the absence of a bill of rights the federalists assumed and held, throughout the period of

⁵³ Elliot's Debates, IV, 103, 107.

⁵⁴ Elliot's Debates, IV, 24. Ibid., IV., 152.

⁵⁵ Ibid., IV, 148.

the convention, a theory of the Constitution which, in after years, was the basis of the state rights doctrine and the theory upon which the South acted in 1861. On the floor of the convention Iredell said:⁶⁶ "Of what use, therefore, can a bill of rights be in this Constitution, where the people expressly declare how much power they do give, and consequently retain all they do not? It (the Constitution) is a delegation of particular powers by the people to their representatives for particular purposes. It may be considered as a great power of attorney, under which no power can be exercised but what is expressly given." Davie and Spaight, speaking more authoritatively because of their participation in the formation of the Constitution and hence, presumably, with better knowledge of its spirit, supported and reinforced this interpretation of Iredell. Nor do the exigencies of the political situation, though pressing, sufficiently account for this interpretation, so general among the federalists. Unquestionably the supporters of the Constitution in North Carolina held that instrument as a compact between the states and the federal government, their agent.

Second to the fear of consolidation and the absence of a bill of rights, the point of greatest objection raised by the anti-federalists was the operation of a federal judiciary within the limits of the state. Judge Spencer was ready to concede⁶⁷ that, in case federation was necessary, the federal judiciary should have appellate jurisdiction in certain cases that should be specifically enumerated and original jurisdiction in all maritime cases; but he thought that within the limits of a state the state's courts should carry into execution the laws of Congress. It was also conceded by the anti-federalists that a supreme federal court might justly have cognizance of controversies between two or more states and between citizens of the same state claiming lands under grants of different states. Further power over the individual they were unwilling to yield. Inasmuch as the

⁶⁶ Elliot's Debates, IV, 148.

⁶⁷ Elliot's Debates, IV, 155.

Constitution had left it to Congress to give definite form to the federal judicial system, the people undoubtedly feared to subject themselves to a power outside their own borders whose expression might touch the daily lives of individuals in an intricate and possibly oppressive manner. The absence of a guarantee of trial by jury increased the general distrust.

The convention remained in session eleven days. Toward its close every important feature of the Constitution had been discussed without any appreciable change of sentiment in either party. The anti-federalists showed no disposition to yield the point of ratification. The latent danger in the position of isolation which North Carolina would occupy, placed between the northern and southern sections of the Union, was recognized; but they believed that a good purpose could be served by non-ratification in that it would give weight to the general demand for amendments. Accordingly Jones reannounced non-adoption as the unchanged policy of his party.⁵⁸ The state ran no risk, he said, of being excluded from the Union when she wished to come in; Virginia would not oppose, and South Carolina and Georgia were deeply interested in North Carolina's accession; indeed twelve men, struggling under a heavy load, would not be likely to reject the assistance of a thirteenth. He quoted the well-known letter of Jefferson to Madison in which the hope was expressed that nine states would ratify in order to secure the Union, but that the remaining four would stand aloof until amendment was effected. Jones' reasoning was conclusive with his party. Taking the direction of the convention into his own hands, he now manoeuvred to bring about a vote which, though serving the same purpose, would not be a direct rejection. The result was a resolution⁵⁹ which asserted the necessity for a bill of rights and suggested that a second federal convention be called. To the resolution was appended a decla-

⁵⁸ Elliot's Debates, IV, 226.

⁵⁹ Elliot's Debates, IV, 242.

ration of rights similar to that in the state constitution and a list of twenty-six amendments.⁸⁰ The first amendment guaranteed the reserved rights of the states; the remainder for the most part were restrictions upon the federal executive and an enlargement of the powers of Congress relative to the other two branches.

The anti-federalists carried the resolution and appendages by a final vote of 184 to 84. A motion by a federalist to substitute a ratifying resolution was defeated by the same majority of one hundred. That the state might be in line to accede to the Constitution when it wished and in the mean time not bring upon itself the results of possible hostile trade regulations by Congress, the convention passed a second resolution offered by Jones which recommended to the state legislature that, whenever Congress should pass a law for collecting an impost in the states which had ratified, a similar impost should be laid on goods imported into North Carolina and the money arising therefrom be appropriated to the use of Congress. The convention adjourned *sine die* August 4.

Immediately after the adjournment of the North Carolina convention the news came that New York, the eleventh state, had ratified. Rhode Island and North Carolina only were without the federal pale. The federalists renewed their activity and public opinion now began to veer around rapidly. Friends of the Constitution in almost every town and county joined in petitions to the General Assembly asking the call of a second state convention. The state was on the eve of the annual August election for assemblymen, and the petitions were to be ready for presentation when the Assembly should meet in November. Upon a suggestion from Governor Johnston the petitioners preserved in the large number of petitions⁸¹ prepared a fair degree of uniformity. They emphasized mainly the benefits to be de-

⁸⁰ Elliot's Debates, IV, 244.

⁸¹ These petitions are found in manuscript in the N. C. Archives, Office of Secretary of State, Raleigh.

rived from a firm union with the other states and the desirability of the state's being in the Union when the anticipated amendments should be formed, so that her influence might be felt as to their content.

The federalists made large gains throughout the state in the election of assemblymen. A most rapid change of sentiment had especially manifested itself in the western counties. This western region generally, on both sides of the mountains, had sent up anti-federal delegates to the Hillsboro Convention in July, but in August elected federalists to the Assembly. The trans-mountain men, the inhabitants of the abortive state of Franklin,⁶² were returning to their allegiance to North Carolina, and sent federalists to the Assembly in the hope that, should the Constitution be ratified, the trans-mountain country would be at once ceded to the federal government and their aspirations to statehood satisfied. Governor Johnston encouraged⁶³ this hope enough to secure their support of the convention measure. Moreover, the sudden threat of a general Indian war had alarmed the whole western country on both sides of the mountains in the fall of 1788, and caused a very widespread appreciation of the benefits to be derived from membership in the Union and its consequent protection.

Though the swing of the political pendulum was now toward federalism, Jones exerted all his powers to stay its momentum. He declared that North Carolina should remain out of the Union for at least five or six years; that this length of time should elapse before the federal judiciary was "let in upon" the people. Centralization and the loss of dearly bought liberties were his themes. Though he

⁶² Ramsey, J. G. M. *Annals of Tennessee*, 283-540. The inhabitants of the territory of North Carolina west of the Great Smoky Mountains in 1784 erected a revolutionary state which they called Franklin, and maintained it against the authority of North Carolina until 1788. The questions involved were similar to those in the Regulators' War of 1769-71. In fact, in many of its phases it was a repetition of this struggle, with the scene shifted across the mountains.

⁶³ McRee, II, 244, Johnston to Iredell.

strengthened the party somewhat in his own district, Jones could not counterbalance the general gains of the federalists.

When the Assembly met in November its membership was found to be almost evenly divided between the parties. This represented a marvelous decrease in the strength of the anti-federalists as compared with their majority in the convention in July. The petitions for a new convention now came in large numbers.⁶⁴ It was evident that public opinion demanded that the Constitution should be considered anew. A convention bill was prepared and passed; but the anti-federalists were strong enough to fix the time of meeting far beyond that planned by the federalists. The date fixed upon was November 16, 1789, six months after the first Congress would convene under authority of the Constitution. With this the federalists had perforce to content themselves.

Though the feeling of sisterhood engendered between the states during the Revolution prevented North Carolina and Rhode Island from being regarded as actual foreign territories when the government of the new Union went into operation in April, 1789, it never occurred to any one to look upon them as other than independent sovereignties. Since the resolution of the Philadelphia Convention made the Constitution binding only on those states that would ratify it, in no quarter of the Union did the view obtain that the states still outside were other than political entities, subject only to the collective will of the people of the respective states in question. When impost and tonnage bills were introduced early in the first session of the first Congress there were some proposals so to regulate them that North Carolina would be treated as a foreign state.⁶⁵ The object of course was to bring to bear economic pressure sufficiently heavy to induce her to enter the Union. Hugh Williamson, acting as agent of North Carolina in Congress,

⁶⁴ Journals, N. C. Records, XXI, 5, 8, 20, 1788-1789.

⁶⁵ McRee, II, Senator Pierce Butler of South Carolina to James Iredell, August 11, 1789.

felt it incumbent upon himself to memorialize that body on the subject.⁶⁶ He urged forbearance, for, he said, only a little time was needed to bring his state into the sisterhood. The proposed hostile clauses, however, had not been seriously entertained. The attitude of the states in the Union toward those outside was one of courteous invitation. Some of them felt perhaps as did the fox in the fable; having lost their own tails they wished North Carolina to do likewise. Already a "southern interest," as opposed to northern interests, was recognized by southern public men, and these devoutly wished for the accession of North Carolina as a means of preserving a balance of power.⁶⁷

The second North Carolina convention called to consider the federal Constitution met November 16, 1789, and five days later passed an ordinance of ratification by a majority of 118 votes. The journal⁶⁸ of the six days' session contains the bare outline of the proceedings, hence it is impossible to determine the spirit of the debates unless extant correspondence of federalists be accepted. Governor Johnston wrote that the opposition was "still violent and virulent"; and Davie upon the first day was doubtful whether ratification could be effected.⁶⁹

But Davie had signally failed to estimate correctly the rapidity with which sentiment for union had developed since the adjournment of the Hillsboro Convention, now more than a year past. Moreover, the position the federalist leaders themselves had taken in defense of the Constitution had labelled them as thorough state rights men provided they had the state once inside the Union. Their speeches in the Hillsboro Convention, the propaganda they had industriously circulated after this convention, and their general attitude toward union conclusively show that they regarded the Constitution as a federal compact and the general gov-

⁶⁶ Williamson to Congress, MS., State Archives.

⁶⁷ Cf. Pierce Butler to James Iredell, McRee, II, 263.

⁶⁸ Journal of the Fayetteville Convention, 1789, in N. C. State Records, XXII, 36-53.

⁶⁹ McRee, II, 271. Davie to Iredell.

ernment as the agent of the states creating it. With this ideal held before the anti-federalists enough of them bowed their heads to enable the state to give sanction to the Constitution.

Whatever form of government the logic of subsequent events may have shown the Constitution to have created, no one could become familiar with the spirit prevalent in both parties in North Carolina in 1789 without feeling that the adoption of the Constitution was based on a belief that it created a governmental compact, with powers superior to those of the old Articles of Confederation only for the purpose of efficient practical administration. Although North Carolina entered the Union only after hesitancy and mature deliberation, yet her subsequent history proved her loyalty to it as long as the Constitution represented her interpretation of its provisions.

CHAPTER II.

A HALF-CENTURY UNDER THE CONSTITUTION.

No abrupt change occurred in the course of her internal affairs when North Carolina entered the federal Union. Local feeling and thought adjust themselves slowly to political changes in external relations unless the changed relations be so radical as to touch intimately the daily life of the individual. In North Carolina a majority trusted that the new form of government would prove its right to exist, but few believed in its perfection. To the country at large the government was as yet a political experiment; nor did the Constitution command universal respect. The anti-federalists soon formed themselves into the Republican party and assumed the rôle of critic.

Ratification had been effected in North Carolina during a surface reaction from the tendency toward state individualism represented by Willie Jones. Once inside the Union, however, the advantages arising therefrom began to manifest themselves and prevented a decided second reaction, but the adjustment to the new order of things was not without jars and friction between federal and state authority. Two incidents occurred in 1790 which, though small in themselves, nevertheless served to show how lightly the federal authority was held during the first years of the Union. Congress had passed an act in June, 1789, prescribing an oath of office in support of the Constitution for such state officials as governors, members of the legislature, and others. When the excitement arose in the last months of 1790 over Hamilton's scheme for federal assumption of state debts, the popular branch of the North Carolina General Assembly, much opposed to assumption, refused by a vote of 55 to 26 to take the oath to support the federal Constitution.¹

¹ Journal of the House. N. C. State Records, XXI, 1021.

The second incident concerned the adjustment of the federal judiciary. A writ of *certiorari* was issued from the federal district court of North Carolina by the direction of three of the United States Supreme Court judges (Blair, Rutledge, and Wilson), directed to the Court of Equity in North Carolina, for bringing up an equity case.² The state judges refused obedience to the writ and denied the Supreme Court's authority in the case. The General Assembly at once passed a vote of thanks³ to the judges for their action. The case was never acted on afterward and with the early reform of the judiciary was thrown out.

The Assembly passed strong resolutions⁴ against the assumption and funding measures of Hamilton, and peremptorily instructed the state's Senators, Samuel Johnston and Benjamin Hawkins, to oppose any excise or direct tax by the federal government.⁵ The North Carolina members of the House of Representatives, though not yet all arrived, were opposed to the whole scheme. In the debates upon the question Hugh Williamson alleged that "assumption" would be interference with the reserved rights of the states and contradictory to the interpretation North Carolina had put upon the Constitution in her act of ratification. He cited an amendment which had unanimously passed her ratification convention and had been proposed to Congress with the expectation of favorable action. The amendment in question declared that Congress should not directly or indirectly, either by itself or through the judiciary, interfere with any state in its plans for liquidating and discharging its public debt. Williamson showed⁶ that North Carolina was ready to account according to the spirit of the original contract, a contract that had not been altered by the formation of a new government. His plan was that a

² Dallas, U. S. Supreme Court Reports, II, 412.

³ N. C. State Records, XXI, 1054.

⁴ N. C. State Records, XXI, 1055.

⁵ Ibid., XXI, 1029, 1049.

⁶ Gales and Seaton. Hist. of Congress, I, 1490, Speech of Hugh Williamson on Assumption.

settlement should first be made between the federal government and the individual states, and the federal government then be allowed to assume the remainder still due from the country.

The attitude of North Carolina materially delayed the assumption program. Smith of South Carolina, Sedgwick of Massachusetts, and Jackson of Georgia replied at length to Williamson's speech. Jackson's position was one of conciliation. He said: "A bare majority, if the measure be carried, is all that can be expected, and I will ask if this bare majority would satisfy North Carolina? Suppose it carried by this majority, and the people of North Carolina will not submit, is it intended to reduce them to obedience by force? Is this a language for freemen? . . . Reconcile them to the measure; bring forward your funds; show them they are not to be oppressed, and you will accomplish this business much sooner." In the mean time the remainder of the North Carolina delegation arrived in New York. Their accession made the non-assumption party the stronger, and thereupon the debates upon the subject ended for the time. The proposition was not again brought forward until the opportunity occurred later to pair it with the controversy between the northern and southern states over the seat for the federal capital. The outcome was the well-known compromise by which the states' debts were assumed and the site for the capital located on the banks of the Potomac.

The federal excise laws of 1791, from which the assumptionists purposed to derive the funds to carry out their measures, occasioned great ferment in all the mountainous region of the United States. The greatest storm center was western Pennsylvania, the trouble there culminating in 1794 in the "Whiskey Insurrection." In western North Carolina, if resistance to the excise laws was less organized, it was not the less effective. Distillers refused to pay the tax; federal collectors were powerless and discreetly remained

¹Gales and Seaton, *Hist. of Cong.*, II, 1505.

out of the excited localities. The spirit of resistance spread also to the eastern counties and the popular ferment did not abate until the excise laws were amended.⁸

A general discontent with the measures which Congress had deemed necessary for adjustment of the new régime accelerated in North Carolina the reaction to anti-federalism. The first political victim of the reaction was Samuel Johnston, who, regarded as the most uncompromising federalist in the state, failed to secure his reëlection to the United States Senate when his term expired in March, 1792. Alexander Martin was chosen as his successor. Martin ranked as a radical until his return from the Philadelphia Convention in 1787, after which he continuously advocated the adoption of the Constitution and in 1789 was elected governor by the federalists in recognition of his services. In 1792 he was again in the confidence of the anti-federalists and owed to them his election to the Senate. In the congressional elections of 1793 the anti-federalists were successful in every district save one—the Scotch district in the Cape Fear region.⁹ With Johnston retired to private life the remaining federalist leaders quietly supported practically the same state rights principles as the anti-federalists. James Iredell, whom Washington had appointed to the Supreme Court bench, set them the example in his dissenting opinion in the case of *Chisholm vs. Georgia*.¹⁰

This case, before the Supreme Court of the United States in 1792 and 1793, raised the question whether a state could be sued by a citizen of another state and, bearing directly upon the question of state sovereignty, thus attracted general attention. The opinion of the Court affirmed the right of suit by a citizen and that the state was amenable to the jurisdiction of the Supreme Court, thus deciding against

⁸ McRee, II, 330, 335, cf. Davie to Iredell, August 2, 1791, and Johnston to Iredell, April 15, 1791.

⁹ Under the new apportionment on the basis of the census of 1790 North Carolina now had ten Representatives.

¹⁰ For the report of this important case see Dallas' U. S. Supreme Court Reports, II, 419-480.

Georgia and in favor of Chisholm, a citizen of South Carolina.

Justice Iredell, however, wrote a dissenting opinion which contained the first expression of state rights doctrine emanating from the Supreme Court. Iredell argued that the states were successors to the sovereignty wrenched from the English crown, and upon this he built up the theory of delegated or divided sovereignty, holding that every state in the Union, in every instance where its sovereignty had not been delegated to the United States, was as completely sovereign as were the United States in respect to the powers delegated by the federal compact. A state, remaining sovereign, could not, therefore, be sued by individuals. Georgia acted upon the theory laid down by Iredell and stood at defiance. The judgment remained unenforced until the eleventh amendment to the United States Constitution, ratified in 1798, removed such questions from the cognizance of the Court.

The Republican party throughout the country received Iredell's opinion as an exposition of its own theory of a definite line of demarcation between the rights reserved by the states and those delegated to the federal government. The opinion is the more interesting in this connection because of Iredell's influence upon the adoption of the Constitution by North Carolina. His interpretation of its provisions in 1793 was in the same state rights spirit with which he had defended it in 1788-1789.

The Alien and Sedition Acts passed by Congress in June and July, 1798, gave the Republicans their next opportunity to raise the state rights issue. These acts placed large discretionary power in the hands of the President and had a decided monarchical flavor. The Kentucky Resolutions,¹¹ passed in protest at the instance of Thomas Jefferson, made a great advance on the doctrine contained in Iredell's opinion in the Georgia case. In these Resolutions each state, as a party to the Constitutional compact, to which it had acceded as a state, was declared to be its own final judge as to

¹¹ Elliot's Debates, IV, 540. Preston's Documents, 295.

infractions of the Constitution by the federal government; and whenever the federal government assumed undelegated powers its acts were unauthorized, void, and of no force. The Alien and Sedition Acts were declared to be the product of assumed powers and therefore void. Resolutions followed from Virginia¹² supporting those of Kentucky. Copies of both were sent to all the other states.

The time of their reception in North Carolina was unpropitious for their success in creating sentiment against the government. Wm. R. Davie was governor and, though ranking as a state rights federalist, was zealous for the safety of the Union. He immediately took the ground that at this particular juncture the Union's existence was in more danger than the rights of the states,¹³ and he therefore threw all his influence against any legislative co-operation with Virginia and Kentucky. The Kentucky Resolution came before the North Carolina Assembly December 21, 1798, and on the twenty-fourth a mild resolution was introduced in the senate expressing the pain with which the body viewed the enactment of the Alien and Sedition laws. Davie's followers secured its rejection by a close vote.¹⁴ The lower house on the same day passed a somewhat stronger resolution¹⁵ and, disregarding the senate, ordered copies forwarded to Senators and Representatives. No joint action was ever had. But the attitude of North Carolina toward the "Doctrine of 1798" was not one of hostility. Her non-action was due to the disinclination on the part of the state administration to encourage dissensions at a time of such high party feeling.

¹² Elliot's Debates, IV, 528.

¹³ Governor Davie's alarm was genuine. In the summer of 1799, having closely interviewed some gentlemen just returned from the races at Petersburg, Virginia, he wrote Judge Iredell that the Virginia leaders seemed determined upon the overthrow of the general government; that if no other method would effect it, they would risk it upon the chances of war. He understood that some of them talked of seceding, while others advocated the policy and practicability of severing the Union into two portions. McRee, II, Davie to Iredell, June 17, 1799.

¹⁴ Journal of the N. C. Senate, 1798, 75-77.

¹⁵ Journal of the N. C. House of Commons, 1798, 78.

When a successor to President Washington was to be chosen in 1796, nine North Carolina districts chose Jefferson electors and one, the Scotch district, an Adams elector. But in 1800, as the storm and stress of federal politics increased, the old federalist forces began to fear for the safety of the Union, and the party showed signs of reviving strength.¹⁶ The Jay Treaty, the Alien and Sedition Acts, and the "Resolutions of '98," together with personal jealousies of the national leaders, had all combined to lend a bitterness to the presidential contest in 1800 that caused a very general apprehension of the disruption of the Union.¹⁷

The result of this apprehension in North Carolina enabled the federalists to carry four electoral districts for Adams, one of them being the western or Salisbury district. The Republican defeat here marked the beginning of the reversion of the whole western half of the state to its old principle of antagonism to eastern control,¹⁸ under whatever party name the control might be exercised. Though the federalists had made a good fight for regeneration of their party they were now practically without a state leader of note. Iredell had died in 1799; Samuel Johnston had passed into pettish and grumbling retirement; Wm. R. Davie had accepted President Adams' appointment as one of the three envoys extraordinary¹⁹ to the Court of the first Consul. Thus, stripped of its old prominent leaders, the federalist party in North Carolina fell into complete disorganization upon the election of Jefferson to the presidency in 1800. Thereafter the several districts which remained federalist were animated more by sectional state issues than by differences with the Republicans on national questions.

The Republican party on the other hand now rapidly entrenched itself in places of power. Through Representative

¹⁶ Raleigh Register, Dec. 3, 1799.

¹⁷ Cf. Von Holst, *Constitutional and Political History of the United States*, I, 168.

¹⁸ *Infra*, Chap. III.

¹⁹ This was Adams' famous second mission to France, composed of Oliver Elsworth, Wm. Vans Murray and Davie. The latter was appointed to fill the place declined by Patrick Henry.

Nathaniel Macon, Jefferson judiciously used the federal patronage in the state appointments, only those of unquestioned loyalty to Republican principles being placed in office.²⁰ Macon was a worthy disciple of Willie Jones, with even more ultra-democratic principles than his political preceptor. He had been in Congress since 1791 and by the end of the century had assumed the leadership of the party relinquished by Jones. His position in national politics as speaker of the House of Representatives from 1801 to 1806 did not lessen his interest in party affairs in the state.

For the first two decades of the new century North Carolina, Republican throughout in each branch of her government, uniformly supported the successive national administrations of the Republican party. The problem before the general government during the first fifteen years was to prevent the humiliation and commercial ruin of the young republic at the hands of either France or England. The protests of the northern federalists when in 1812 Madison's administration opened war on England found no answering echo among their former party associates in North Carolina.²¹ Still more profound was the silence when the New England federalists in 1814 met in the Hartford Convention for the generally understood purpose of forcing a peace with England, or, failing in that, of possibly seceding from the Union.²²

Since the Hartford Convention practically reasserted only the doctrine laid down in the Kentucky Resolutions of 1798,²³ the Republican party, with state rights as its cardinal principle, could attack the policy of the New England states only on the ground that their action was a betrayal of the cause of common defense. North Carolina Repub-

²⁰ Dodd. *Life of Nathaniel Macon*, 169.

²¹ Cf. Message of Gov. Wm. Hawkins to the North Carolina General Assembly, Nov. 18, 1812, Executive Letter-book.

²² The report of the Hartford Convention is given in 7 *Niles' Register*, 305-313.

²³ Von. Holst, I, 268, holds that the theory in the Kentucky Resolutions was identical with that upon which the Hartford Convention acted.

licanism, therefore, freely conceded to Massachusetts and her neighbors at Hartford the right to speak their sovereign wills. But the concession was coupled with the suggestion that they should speak through their legislatures, and at a time when all were not endangered by a public enemy; in short, that "they should speak like Americans."²⁴ The timely ending of the war relieved the situation for the Republican party at large, and the chief result of the Hartford Convention was to draw odium upon the federalist party sufficient to assure its swift dissolution.

From 1815 to 1820 North Carolina, in common with the rest of the Union, enjoyed a period of political calm which came as a welcome relief after the party strife and turmoil preceding and accompanying the war with England. The people seemed satisfied with the type of Republicanism administered successively by Jefferson, Madison and Monroe. The Union, now that it had stood the test of a war, became a fixture in the political conceptions of the people; sentiment, as well as political wisdom and experience, was beginning to form a bulwark for its protection.²⁵

The period of calm was soon broken, however, by the development of a serious political contest between the North and the South over slavery. Its occasion was the application of Missouri to be admitted into the Union as a slave state.

A North Carolina newspaper of February 26, 1819, gave the first intimation to the people of the state that the question had been opened as a sectional issue. It said: "In the House of Representatives yesterday a decision took place in a committee of the whole, which, if confirmed by the House, may be expected to have an important bearing on the political relations of the several states."²⁶ This decision was to require of Missouri, as the condition of her admission, the

²⁴ Raleigh Register, Dec. 8, 1814, and Jan. 27, 1815.

²⁵ 17 Niles' Register, 31, has a very interesting account at this date of a fervent prayer for the permanence of the Union uttered by a North Carolina Revolutionary veteran upon his death-bed.

²⁶ American Recorder, Feb. 26, 1819.

prohibition of further introduction of slaves and the emancipation of all slave children after the admission as soon as they reached the age of twenty-five. This was the first instance of such a condition being proposed as the condition of admission for a new state, and the South at once saw in it a purpose on the part of the free states to circumscribe and finally to strangle slavery just when, on account of the increased demand for cotton by Europe since the war of 1812, the institution was beginning to return a very large profit.²⁷ The Missouri Compromise and its discussion, therefore, clearly demonstrated that in slavery arose the gravest domestic question hitherto set for the solution of the American people. Strict construction and state rights, less emphasized in the South since the Republican ascendancy in 1800, now assumed their old-time prominence.

The North Carolina legislature gave no official utterance to the sentiment of the state upon the Missouri question, so that we must rely upon the newspapers and the expressions of public men for local public opinion. Newspapers were just beginning to exercise that powerful influence upon North Carolina politics which reached its climax with the group of strong editor-politicians of the period of 1850-1860. The *Raleigh Register*, the official mouthpiece of the Republican party since its establishment in 1799, published both sides of the Missouri debates, beginning with the speech of Otis of Massachusetts and continuing through the series.²⁸ Its editorials were in the orthodox vein of decided opposition to any restriction upon Missouri. The *Minerva*, claiming no party name, but representing what little opposition to the Republicans remained over from the old federalist days, assumed an attitude very different to the *Register*. It said, January 28, 1820: "We doubt whether it be possible to answer Mr. King's speech of the last session against granting to this new state (Missouri) the privilege of holding our fellowmen in bondage. Yet our northern

²⁷ Cf. Von Holst, I, 423.

²⁸ *Raleigh Register*, March 3, 1820, et seq.

brethren will generously remember that it is not always possible for the most honest to be just." A month later the same paper asserted the constitutionality of restriction,²⁹ and added: "It is equally certain that true policy forbids the *extension*, as it submits to the toleration of slavery." Proceeding, this editorial predicted that inasmuch as the evil of slavery was of such magnitude and involved a species of property which was bolstered up by the stubbornness of interest and prejudice, half a century would be required to extirpate it. Two weeks later the *Minerva* declared an open and definite hostility to the extension of slavery and began to advocate some form of gradual emancipation.³⁰ Letters and addresses were published weekly on the subject, even the academic productions of college students on the rights of man, including the slave, finding ready welcome in its columns.³¹

Though the *Minerva* voiced the known sentiment of several detached groups in North Carolina,³² and undoubtedly that of even a respectable minority throughout the state, those who had such opinions as to slavery restrictions were totally unorganized and their power, therefore, was correspondingly ineffectual. Yet on the Missouri question the difference in sentiment between the North Carolina members in Congress was scarcely less radical than that between the *Register* and the *Minerva*.

Nathaniel Macon, now in the Senate, represented as always the state rights Republicanism of the eastern North Carolina slave-holders. He opposed to the end the whole plan of the Compromise, on the ground that it would be an admission on the part of the South that Congress could set meets and bounds to slavery. He held that each new territory, when ready for statehood, should come into the

²⁹ The *Minerva*, Feb. 11, 1820.

³⁰ The *Minerva*, Feb. 25, 1820.

³¹ *Ibid.*, March 10, 1820, et seq.

³² These groups were the Quaker counties—Guilford, Randolph and Chatham, the Moravian center at Salem, and the mountain counties where slavery was a subject of indifference.

Union with such institutions as it chose to adopt, provided such institutions were not repugnant to the ideas entertained by the states when they created the Union.⁸³ Macon cast his vote against the final passage of the measure and was followed by six of the state's Representatives in the House. Montford Stokes, Macon's colleague in the Senate, voted for the compromise measure in each stage of its progress. In a letter⁸⁴ to Governor Branch explaining his action Stokes made some general observations on the subject of slavery which evidently expressed the views of many others in the state.⁸⁵ He had voted for the Compromise, he said, in order that the South might secure the portion of the Louisiana Purchase below 36° 30' as an asylum for slaves already too numerous to be comfortably supported in the southern border-states. Further, he had "a charitable and respectful regard for the feelings, and even the prejudices, of that great portion of the Northern people that was averse to slavery in any form, and that would join heartily with us in any constitutional measure to get rid of the evil."

This letter discloses conflicting sentiments. As a practical border-state politician Stokes felt that slavery might be rendered less an evil by its diffusion over a larger territory. A slave sold by a Virginia or North Carolina tobacco planter to a cotton planter in Alabama or Arkansas meant the transference of labor from a market over-supplied to one under-supplied. Such a transfer of a slave helped, to that extent, to relieve the congestion upon the tobacco plantation. At the same time his purchase price remained in the hands of the tobacco planter, probably to be expended in the purchase of necessary food and clothing for the already too numerous and yet ever increasing blacks.⁸⁶ It was thus,

⁸³ Annals of Congress. 16th Cong., 1st sess., I, 219, et seq., for Macon's speech on the Compromise plan.

⁸⁴ Publ. in Raleigh Register, March 17, 1820.

⁸⁵ The Western Carolinian, March 25, 1820, and Star, April 1, 1820, endorsed Stokes' views.

⁸⁶ The aggregate population of North Carolina in 1820 was 638,820. Of these 205,017 were slaves and 14,612 were free negroes. The great bulk of the slaves were in the north and middle east, i. e.,

as the representative of a border slave state, that Stokes spoke for the diffusion of slavery. On the contrary, his words relative to some constitutional method by which to rid the country of slavery must be regarded partially as spoken in a personal sense and partially as expressing the theoretical hostility to slavery of that section of North Carolina from which he came—the mountainous west.⁸⁷

When the Missouri Compromise had passed into history a period of party fermentation began. The Republican party, occupying the whole field without a rival, embraced in its ranks a number of strong and forceful leaders of the younger school of politics whose interests and policies were likely to clash. Among these were Henry Clay, Daniel Webster, John Q. Adams, Wm. H. Crawford, John C. Calhoun, and Andrew Jackson. Internal improvements, the United States banks, and the tariff showed signs of becoming leading issues. But Jackson's deadly struggle with the bank had not yet begun. Clay was already identified with the policy of a protection tariff. Calhoun in 1816 had been friendly to a moderate tariff, the tariff measure of that year being acquiesced in by the whole South.⁸⁸ But the tariff bill of 1820 found the South practically solid in opposition to further increase of duties.⁸⁹ Calhoun now constituted himself the leader of the southern anti-tariff forces, and his lasting enmity to Clay's "American System" became an almost dramatic feature of American politics.

As the presidential election of 1824 approached the country presented an aspect of unusual political confusion, due mainly to the rival claims of the numerous leaders, and North Carolina politics was a reflection of that of the Union. The

in the tier of tobacco counties which bordered Virginia and in the irregular tier of counties which ran southwestward across the state at the upper limits of tide-water.

⁸⁷ Senator Stokes was a native of Wilkes County.

⁸⁸ *Annals of Cong.*, 1st sess., 1271.

⁸⁹ Cf. *Niles' Register*, vol. 18, pp. 169, 178. North Carolina cast one vote for the tariff bill of 1820; so also did Maryland, Virginia, and South Carolina. Tennessee, Mississippi, Alabama and Louisiana were unanimous against it.

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state was Republican to be sure. But what were Republican principles? Who represented the Republican party? Was it Crawford of Georgia, Jackson of Tennessee, or Adams of Massachusetts? Each of these claimed the honor and had raised his standard.

Despite the obscurity of party lines and the lack of definiteness of party principles there were political undercurrents in North Carolina which never lost their way. Crawford was regarded as the successor to the old state rights Republicanism of Jefferson and Madison as opposed to the young national Republicanism of the western and northern leaders. Therefore the slave-holding section of North Carolina, the wealthy and populous middle east, true to political instinct, came to Crawford's support.⁴⁰ The west, less influenced by slavery, had not developed the strong, strict construction principles which, since 1789, had controlled the east. The line of sectional cleavage was now the more distinct also because of the insistent demand of the west for reform of the state constitution and an equalization of representation.⁴¹ State parties, therefore, were already formed, and these readily adjusted themselves to the parties taking form under the national leaders. When the east declared for Crawford the west as naturally declared against him. The western party at first adopted Calhoun as its candidate against the "caucus" or Crawford ticket. But when the coalition between the Jackson and Calhoun forces occurred in March, 1824, with the first place assigned to Jackson, the combination, known as the People's Ticket, lost nothing of its popular favor.⁴²

When the General Assembly met in November, 1823, the members arranged themselves into eastern and western parties. A western member soon introduced a resolution⁴³ to

⁴⁰ Macon had designated Crawford as early as 1821 as the "most republican and the most economical" of the prospective candidates. Macon to Bartlett Yancey, Dec. 12, 1821. Dodd, 334.

⁴¹ *Infra*, Chap. III.

⁴² Cf. *Star*, March 5, and March 12, 1824.

⁴³ N. C. House of Commons Journal, 1823, 155.

instruct the state's Senators and Representatives in Congress to refrain from entering into a congressional nominating caucus. The resolution was purely a party move and was aimed at the old Republican party practice of naming its presidential candidate by the caucus method. Hence the Crawford forces at once attacked the resolution and a heated debate⁴⁴ of three days' duration ensued, which finally resulted in a defeat of the instructing measure by a close vote. The eastern members then proceeded to hold a caucus on December 24, and recommended Crawford to the people. A few months later the Washington caucus⁴⁵ formally announced Crawford's candidacy and the Harrisburg convention that of Jackson. Clay had been put forward by the legislature of Kentucky and Adams by that of Massachusetts.

In the mean time the three Quaker counties, Guilford, Randolph, and Chatham, making up a district in the center of the state, held a meeting at Greensboro, endorsed Adams' candidacy, and passed resolutions⁴⁶ condemning "the attempts which have been made to suppress the voice of the people." Jackson was named by the Quakers as their second choice. Only two sets of electors, however, were placed before the people of the state, and these were pledged respectively to Crawford and Jackson.

The People's ticket *versus* the caucus ticket enlisted the interest of every one who could be aroused to evince a party

⁴⁴ "The debates on the Fisher, or Anti-Caucus Resolutions, are published in weekly issues of Raleigh Register from March 1 to May 5, 1824.

⁴⁵ "Nathaniel Macon, though a supporter of Crawford, refused to attend the congressional caucus on the ground that he opposed all oligarchical methods. See Dodd, 337.

⁴⁶ "This was in recognition of Adams' defense of the right of petition. The North Carolina Quakers had always opposed slavery and had utilized the right of peaceful petition to Congress in order to register their protests against it. They had now for a number of years practiced manumission, and when this practice came into conflict with positive state laws they adopted the method of colonization in Hayti. See Annals of Congress, 5th Cong., 1st sess., 475, for first Quaker petition from North Carolina in regard to slavery. Also see 27 Niles' Register, 226, 289 and 29 Niles' Register, 247 and 447 for instances of large shipment of slaves to Hayti by N. C. Quakers.

spirit. Party principles were ill defined and entirely secondary. The question of the method of naming the candidates was given the chief attention in North Carolina. Both sides made their appeals to "the people," to "the honest yeomanry," and to "every honest Republican." The result, however, was not difficult to predict. The west had attained a unanimity for Jackson equal to its solidarity on the state issue of constitutional reform. Jackson's personality was also awakening enthusiasm in the east among the classes which were less committed by interest and affinity to old state rights Republicanism.⁴⁷ Moreover, Crawford's ill health⁴⁸ decreased his chances of success in the state.

The majority for the People's ticket in November was 4794 votes.⁴⁹ Of the sixty-three counties composing the state, forty-two gave Jackson majorities. This number was exclusive of the three Quaker counties, which had finally given their vote to Crawford as the weaker candidate in the hope⁵⁰ of casting the election into the House of Representatives. The remainder of the twenty-one Crawford counties were middle eastern and covered the general area in which the slave population was greatest.

On the first day of December the electors met in the state capitol and gave a unanimous vote for Jackson and Calhoun, one gun being fired for each elector and one extra for Henderson, a western county which had given a unanimous vote for the People's ticket. Two months later the will of the state was subverted by the action of its Representatives in Congress. When the election was thrown into the House for a choice from the trio, Jackson, Adams, and Crawford, the thirteen Representatives from North Carolina voted according to party. Ten of the number ranked as Republicans and in consequence gave their votes to Craw-

⁴⁷ Star, Feb. 6, 1824.

⁴⁸ Crawford had been stricken with partial paralysis soon after his nomination and his recovery seemed somewhat doubtful as the campaign progressed.

⁴⁹ Executive MS. Letter-Book, 1824, 120.

⁵⁰ Star, Dec. 3, 1824.

ford. Two voted for Jackson, and one, the member from the Quaker district, gave his vote to Adams.⁵¹

From the standpoint of logical development the course of North Carolina politics during the succeeding four years was anomalous. The state rights or eastern party executed a political somersault before 1828 and in that year supported Jackson with the same energy with which in 1824 it had opposed him. The reason is not far to seek. Jackson was now the only opponent of Adams, and, as a southerner, was naturally regarded as a safer guardian of southern interests. The eastern party, by a sort of political divination, estimated him as at heart a state rights man, and this estimate ever afterward remained unchanged, even though succeeding events apparently contradicted it. The west, where Jackson's popularity in the state had originated, did not at once relinquish its candidate to the east but cast its vote for him in 1828. Yet a restlessness under such harmony rapidly developed in that section after the election, and the soil became fertile for the growth of Whig principles.⁵²

In the mean time an issue had arisen in national politics which was to illustrate as graphically as had the Missouri controversy and the vote on the tariff bill of 1820 the diverging interests of the North and the South. A high tariff bill was proposed in Congress in 1827 and failed to become law only by the casting vote of Calhoun as president of the Senate. In February of the following year the tariff measure since known as "the tariff of abominations" was enacted into law.⁵³ Though the opposition to this tariff measure, on the ground of unequal benefits to the sections, became general throughout the South, the direction given this opposition by South Carolina caused her sister southern states to halt in their support. Her remedy, nullification, deduced from the Virginia and Kentucky Resolutions of 1798,

⁵¹ Thus, since Adams was elected, the Quaker vote was the only effectual one given by the state.

⁵² Cf. *Western Carolinian* issues, Dec. 15, 1828, et seq.

⁵³ Act, May 19, 1828.

was to be practically applied by a sovereign state in the abrogation of federal laws within her borders.

The tariff and nullification controversy, intimately bound up with a personal difference between President Jackson and Vice-President Calhoun, the great exponent of the nullification doctrine, extended over a period of five years. During this period North Carolina pursued the course she felt to be best fitted to secure a repeal of the obnoxious tariff and at the same time to preserve her original attitude toward state rights without endorsing the radical activity of South Carolina. Just after the tariff bill of 1827 so nearly became a law Governor James Iredell,⁵⁴ anticipating that the protectionists would again bring forward the measure at the next session of Congress, recommended to the North Carolina Assembly to put on record some form of protest. Accordingly a resolution was passed which declared that any increase of import duties by Congress was inexpedient and unwise.⁵⁵ That this simple resolution might the more effectively gain the ear of Congress its preamble, while admitting that Congress had constitutional power to lay such duties, declared nevertheless that "interest, either pecuniary or political, is the great point of union, from the smallest association up to the confederacy of American states; that whenever a system is adopted by the general government which does not equally conserve the interests of all the states then the right rests with any state or states to question whether the benefits of the Union are not more than counterbalanced by its evils." This guarded expression of state rights sentiment was a blow in the water, the objectionable tariff being passed a month later.

With Adams' defeat by Jackson, November, 1828, the belief became current in North Carolina that the tariff would be repealed as soon as the new administration took its defi-

⁵⁴ Message, Nov. 29, 1827. Executive Letter-book. Governor Iredell was the son of Judge James Iredell of the U. S. Supreme Court.

⁵⁵ Journal of the N. C. Gen. Assembly, 1827-28, p. 101.

nite course.⁸⁶ Events drifted, however. The Hayne-Webster debate occurred in January, 1830, and intensified interest in the strained situation. Though not yet ripe for action, the course South Carolina would pursue was a foregone conclusion, and the question before the Union, therefore, was how far that state would be supported by the other southern states.

For North Carolina this question was answered directly by the people on Independence Day. Fourth of July celebrations were held in nearly every county in the state and were made the occasion of a plebiscite on the South Carolina doctrine. The time-honored custom of speaking to toasts was in vogue at political meetings and in this practice North Carolinians, inspired by the native vintage of corn, were not backward. At Ashboro the following theme inspired the orator of the day and evoked the applause of the people: "The Union of the States—united we stand, divided we fall! He who wantonly engenders a feeling of hostility between the States instead of soothing it to harmony is a traitor to his country. Let no such man be trusted." At Hillsboro: "State Rights and Federal Powers—If the line of demarcation between them, as drawn by the framers of the constitution, should be preserved unobscured by the refinements of construction, our Union will stand throughout Time, as the proud monument of the capacity of a free people to govern themselves." At Fayetteville: "Our Sister State—South Carolina. We esteem her worth, but deprecate her example. We therefore hold her in *union* a friend—in *disunion* an enemy to our political institutions."⁸⁷ Speaker vied with speaker everywhere in expression of dissent from South Carolina's doctrine, though at the same time care was taken to soundly rap the tariff. Calhoun's

⁸⁶ This view was expressed in the newspapers and in Gov. Owen's Message to Assembly, Nov. 19, 1829. MS. Letter-book.

⁸⁷ The newspapers throughout the state printed accounts of the many celebrations and their most popular toasts. These three have been carefully chosen as typical and as expressive of the general sentiment. They are found in Raleigh Register, July 12, 1830. See Carolina Watchman of same date.

reasoning might be without a flaw, but as yet the blessings of the Union were dearer to the people than statesmen's logic.

When the annual Assembly met in November it was expected to register officially the will of the people upon the subject of nullification. Resolutions were accordingly introduced by Jonathan Worth, a Quaker member from Randolph County, and after a heated debate and slight amendment they passed the lower branch by a vote of 87 to 27 in the following form:⁵⁸ "Resolved by the General Assembly of North Carolina: That although the Tariff Laws as they now exist, are, in the opinion of this Legislature, unwise, unequal in their operation, and oppressive to the Southern States, yet this Legislature does not recognize as constitutional the right of an individual state of this Union to nullify a law of the United States." The twenty-seven members who opposed this resolution were extreme state rights men and were actuated by a fear that the repudiation of nullification might mean the first successful assault upon particularism. They therefore preferred to make no concession, even as to the questionable doctrine of nullification, unless the crisis became acute. The senate agreed with the commons minority and refused to commit itself. The larger freehold qualifications required for membership in the senate made this branch of the legislature less responsive than the house of commons to popular sentiment and more representative of the old Republicanism of the east. It favored resolutions which emphasized the reserved rights of the states and condemned the tariff as a usurpation of power by the federal government,⁵⁹ but it was not prepared to antagonize the popular branch and public sentiment further than to remain silent.

The famous Nullification Ordinance of South Carolina, the result of a state convention in 1832, brought the nulli-

⁵⁸ House Journal, Dec. 31, 1830, p. 257.

⁵⁹ The senate was inclined to the "Sawyer Resolutions." They were of a strong state rights tone. See N. C. House Journal, 1830, 175.

fication controversy to a crisis. The North Carolina legislature was in session when the ordinance was received, and the senate could no longer stay the tide of dissent. Some attempt was made to link the tariff with internal improvements and make the two together a cause for requesting all the states to meet in a federal convention for the purpose of giving an authoritative interpretation of all constitutional questions in dispute. But this plan failed, and the two houses thereupon came to an agreement and passed anti-nullification resolutions.⁶⁰ These resolutions contained both the declaration that the tariff was unconstitutional and the decision that nullification was revolutionary and subversive of the Constitution. They were thus a compromise between the conservatism of the senate and the liberal tendencies of the commons. The declaration that the tariff was unconstitutional satisfied the senate and the east; the condemnation of nullification contented the popular branch and the west.

Numerous mass-meetings in the counties attested the harmony of the people with the action of the legislature.⁶¹ The western counties greeted the South Carolina Ordinance with a storm of dissent, and the popular voice of the east, though slightly confused as to the relation of nullification to state rights, was scarcely less condemnatory in tone. The venerable Nathaniel Macon, now in voluntary retirement, drew the line of demarcation between the two doctrines and finally settled the doubts of his party-friends. In a letter to a friend he said: "I have never believed a state could nullify and stay in the Union, but have always believed that a state might secede when she pleased, provided she would pay her proportion of the public debt; and this right I have considered the best safeguard to public liberty and to public justice that could be desired."⁶² This was the essence of North Carolina particularism, and when thus set forth by Macon it

⁶⁰ Senate Journal, 1832-33, p. 99; N. C. House Journal, 1832-33, pp. 224, 225.

⁶¹ For reports of these meetings see Raleigh Register, Nov. 30, Dec. 7, Dec. 14, and Dec. 21, 1832. Also current issues of Carolina Watchman and Raleigh Star.

⁶² Macon to Samuel P. Carson, Feb. 9, 1833. Dodd, 385.

set at rest the fears of a group of eastern politicians who, led by Samuel T. Sawyer in the Assembly, had opposed the renunciation of the right of a state to nullify, lest in so doing some portion of the original state rights doctrine should be endangered.⁶³

It was with a feeling of relief that North Carolina received the assurance sent forth to the states by Governor Hayne that South Carolina would hold her ordinance in abeyance until the results of Clay's compromise tariff measure of 1833 were known. This tariff reduction measure was passed by Congress but was accompanied by a bill for collecting the revenue under military supervision, if needful. This latter bill, known as the "force bill," served in part to placate the domineering spirit of President Jackson and to save the face of Congress.⁶⁴ But reduction of the tariff had brought relief to the strained situation. The nullification excitement was now practically passed, in North Carolina people suddenly ceasing to talk or write about it. Its last echo was the introduction of a bill the following year to instruct the state's Senators and Representatives to use their endeavor for the repeal of the "force bill," which was deemed "inconsistent with the sovereignty of the States and, therefore, dangerous to the liberties of the people."⁶⁵

The repudiation of the doctrine of nullification by North Carolina can in no sense be interpreted as a renunciation of state rights as held at the time of the adoption of the Constitution. That the state was profoundly stirred by the excitement is true; and the large number of popular meetings held in consequence offers an opportunity to study directly the spirit of the masses, and at the same time shows the tendency of the people of North Carolina, in contradistinction to its political leaders, to take a direct personal interest in the policy of the state. Though these meetings almost uniformly registered protests against nullification,

⁶³ Journal N. C. House of Commons, Jan. 24, 1832, 2d Sawyer Resolutions.

⁶⁴ Cf. Schouler, *Hist. of United States*, IV, 106.

⁶⁵ Journal of N. C. House of Commons, 1834, p. 229.

only one has been discovered by the writer in which the sentiment was expressed that the United States constituted one great political society and that the government thereof was essentially a national government.⁶⁶ On the contrary, there were evidences in the legislature, in mass-meetings, in the press, and in private correspondence which showed a spirit anxious to find a way to repudiate the doctrine of nullification, but at the same time to save the original doctrine of state rights. Macon's letter, already cited, probably expressed as accurately as could be done the attitude of the controlling force in the state.

The close trimming of the old Republicans between nullification and the older doctrine of state rights enabled them to retain supremacy in state politics until 1835. Jackson was uniformly supported through his two administrations. The President's veto of the Maysville Turnpike appropriation and his fight on the United States Bank were, to North Carolina Republicans, a fulfillment of their trust in him. These two factors caused the Assembly in 1831 to recommend him to the people for reelection,⁶⁷ and again, in 1834, to instruct the state's Senators to vote for expunging from the records the resolutions of censure of the President by which the United States Senate had expressed its displeasure at his removal of the government's deposits from the United States Bank.⁶⁸ Out of the action of the legislature in instructing the Senators grew a contest which, superimposed upon the sectional differences of the east and the west, drew the final line of demarcation between the old Republicans and the young Republicans, or Democrats and Whigs. Willie P. Mangum and Bedford Brown

⁶⁶ This meeting was held in Wilmington and was presided over by ex-Governor Owen. Strangely inconsistent with this, Wilmington was the strongest secession centre in the State in 1860-61. See *Raleigh Register*, Jan. 4, 1833.

⁶⁷ Resolutions. *Laws of N. C.*, 1831-35, p. 139.

⁶⁸ Three southern states passed instructing resolutions—Alabama, Mississippi, and North Carolina. For the bank controversy and the fight over "expunging" see Benton's *Thirty Years' View*, I, 373, et seq.

were the state's Senators. Mangum, a latitudinarian of the Henry Clay type, refused to be instructed by the legislature and voted against the expunging resolutions in each instance.⁶⁹ Brown, a state rights man of the Macon school, was submissive to the mandate of his state. About the standards of the two Senators two factions arrayed themselves and joined in a fierce contest for supremacy. Though the question of instruction was the nominal issue,⁷⁰ the differences of the factions were much wider. Under the lead of Mangum were ranged all those who were anti-Jackson, pro-bank, for internal improvement by the federal government, and who favored a reform in the state constitution. Brown led those who held to the opposite principles. In general Mangum's support was the west, Brown's, the east. Both parties claimed Jefferson as their political leader, both professed state rights principles. The Whig party, in an endeavor to eclipse its rival, now designated itself the "State Rights Whig party" during the first years of its existence. But coöperation with the national Whig party soon fostered the growth of a spirit of nationalism among the Whig leaders which was directly opposed to the particularistic principles of the state Democracy.

Under the guidance of Mangum and Governor David Lowrie Swain the Whig party distanced its competitor and in 1835 was able to force constitutional reform upon the reluctant east. This victory was followed by a Whig régime of fifteen years' duration.⁷¹ In the mean time, as political power was about to slip from the grasp of the Democrats, the party of *real particularism*, it is pertinent to examine the question of slavery, over which, in an effort to retain supremacy, the danger cry was now raised.

The first attention to slavery in the public councils of North Carolina after the subsidence of the Missouri Com-

⁶⁹ Benton, *Thirty Years' View*, I, 528.

⁷⁰ Cf. Dodd, *Life of Macon*, 381.

⁷¹ Since reform of the state constitution was the lever by which the Whigs gained supremacy it will be treated in a separate chapter and as introductory to the Whig régime.

promise excitement was that given in a message of Governor Gabriel Holmes to the Assembly in 1824.⁷² The governor called attention to the large number of free negroes who, being emancipated by their masters, had emigrated to the island of Hayti and were now returning to the United States, particularly to North Carolina. In view of the fact that these were likely to have become inoculated with ideas of freedom not meet for the slave, he suggested a law to prohibit the return of such persons to the state. No action was taken, however, until 1826. In this year a law was enacted to prohibit the entry of free negroes, by land or water, under a penalty of five hundred dollars fine. Failure to pay the fine subjected the delinquent to ten years' servitude and to removal from the bounds of the state within thirty days after its expiration, or to a repetition of the service penalty. As to the free negroes already within the state, the act provided that any who were able to labor and yet spent their time in idleness and dissipation should be committed to jail and, upon failure to give good security for future industry and good behavior, should be bound to service by the court of the county in which the case fell. Children of such parents were also to be bound to service and taught a useful trade.⁷³ Care was taken to provide a jury trial in all these cases. In 1828 a law was enacted charging the poll-tax of all free negroes to the person upon whose land they lived.⁷⁴ These laws were primarily for the purpose of protecting the slave from the influence of the Ishmaelites of his race.

Simultaneously with the founding of the American Anti-Slavery Society and the first issue of Garrison's *Liberator* in Boston, Massachusetts, North Carolina, in common with other southern states, as if in answer to the threat implied by the New England movement, began to tighten the cordon about her slaves. Thus the years 1830 and 1831 were years

⁷² Executive Letter-book, MS. Nov. 16, 1824.

⁷³ Laws of North Carolina, 1826, 13.

⁷⁴ *Ibid.*, 1828-29, p. 21.

of unusual activity in slave legislation. The mere titles of the laws enacted will show their nature and object. The following illustrate their spirit: To prevent all persons from teaching slaves to read and write, the use of figures excepted; to provide further punishment for harboring and maintaining runaway slaves; to regulate emancipation of slaves; to prevent free persons of color from hawking and peddling outside the county in which they reside; and a supplementary act for the good government of free persons of color.⁷⁵ In the summer which followed the passage of these laws by North Carolina occurred the Nat Turner slave insurrection in Southampton County, Virginia. Southampton bordered the North Carolina line, and the wild plot extended over the border among the dense slave population of the contiguous counties.⁷⁶ Murfreesboro, the nearest North Carolina town, received many of the panic-stricken refugees from the disturbed area, and quickly raised a troop of horse and dispatched it across the border to the seat of trouble.⁷⁷ When the extent of the massacre became known wild alarm spread throughout the slave area of North Carolina. Rumors of slave risings flew thick and fast, from Murfreesboro on the north to Wilmington on the south and as far as Hillsboro to the west. The town of Wilmington remained under arms many hours in anticipation of an attack by slave insurrectionists who were supposed to be gathering like a black cloud in Duplin, Sampson, and New Hanover Counties.⁷⁸ Raleigh was reported to be threatened from the southward and was put in a state of defense.⁷⁹ Hillsboro hastily organized a company of militia to be sent to the defense of the capital; many other towns organized and drilled volunteer companies, and the patrol system sprang suddenly into existence. The scare was genuine throughout the whole slave area of the state.

⁷⁵ Laws of N. C., 1830-1831, pp. 11-16. These laws were all passed between November, 1830, and February, 1831, six months previous to the Nat Turner Rebellion.

⁷⁶ Drewry, *The Southampton Insurrection*, 58-75.

⁷⁷ Wheeler, *Historical Sketches*, II, 210. Personal recollections.

⁷⁸ *Wilmington Recorder*, Nov. 16, 1831.

⁷⁹ *Raleigh Register*, Sept. 15 and Sept. 22, 1831.

Its immediate result was the trial and swift conviction of a number of slaves and free negroes on the charge of conspiracy.⁸⁰ The excited state of the popular mind had its reflex in the laws of the succeeding Assembly, and machinery was set up for the speedy trial of slaves in capital cases.⁸¹ The law of 1741, which authorized county courts to grant certificates to slaves permitting them in certain cases to carry guns, was repealed.⁸² But for the most part slaves received the protection accorded private property, and the onus of the legislation growing out of the Southampton insurrection fell upon the free negro.⁸³ The Assembly seriously considered a bill which proposed to lay a tax of ten dollars on every negro poll in the state—slave or free—for the purpose of removing all free negroes to Liberia. The defeat of the measure seems to have been due to the objection of slave-holders to the payment of the ten dollar tax on their slaves rather than to a consideration of the extra-constitutionality of such a measure.

The whole South had been keyed to a high tension by the circumstances and horrible detail of the sixty-five murders committed by Nat's band. A lasting impression was left upon the minds of all southerners; therefore they were especially sensitive to abolition agitation at the North. Feeling was intensified by the literature now beginning to be circulated in the South by northern apostles of abolition. The question became of large importance in Congress, and involved a determination of whether the United States mails should receive for distribution the class of matter which the southern states viewed as incendiary. President Jackson recommended to Congress the passage of a law which would prohibit the distribution of such matter. Opposition developed among the northern representatives and this contro-

⁸⁰ Six were executed in New Hanover County, three in Duplin, and several in Sampson. *Wilmington Recorder*, Dec. 16, 1831; and *Raleigh Register*, Oct. 20, 1831, and Sept. 22, 1831.

⁸¹ *Laws of N. C.*, 1831-32, p. 25.

⁸² *Ibid.*, 34.

⁸³ See *Laws of N. C.*, 1831-32, pp. 7, 10, 24, for new stringent laws as to this class of citizens.

versy, together with the wrangle over the "gag-rules" and disposition of antislavery petitions, had, by 1835, brought the South to the ragged edge of exasperation.

The southern Democrats, at the suggestion of Calhoun, soon came to the view that it was within the right of a state to determine what character of literature should circulate within its borders. Jackson's suggestion was not pressed, though North Carolina was grateful to him for the good intent.⁸⁴ The state now strengthened her own laws regarding incendiary literature and passed resolutions which were her answer to agitators—in Congress or elsewhere.⁸⁵ These resolutions were of a strong state rights tone and declared the competency of the state to legislate upon all questions calculated to influence slavery within her borders. She deprecated, therefore, talk of authority, advice, or persuasion from any source whatsoever, and regarded the offer of any of these as intrusive, whether by Congress, legislatures, or people of other states.

The excessive sensitiveness exhibited in these resolutions marked the seriousness with which the state regarded the rise of the abolition movement. Upon the question of opposition to such a movement there was no divergence of opinion in the state. Both parties condemned with equal vehemence the proposed northern movement for the abolition of slavery in the District of Columbia. But the Democratic party of the state made slavery protection its creed, and thereafter the "soundness" of every presidential candidate upon the slavery question was the condition of its support. The Whig party was never the party of the slave-holder in North Carolina, and it was due to this that the Democrats were able in 1836 to carry the state for Van Buren,⁸⁶ Jackson's chosen successor, though the Whigs elected the governor, this being the first popular election for that office ever held in the state.

⁸⁴ Raleigh Register, Nov. 17, 1835.

⁸⁵ Laws of N. C., 1835, Resolutions, p. 119.

⁸⁶ Van Buren had given assurances, on inquiry from North Carolina Democrats, that he opposed any interference with slavery in the District of Columbia. See 50 Niles' Register, 126.

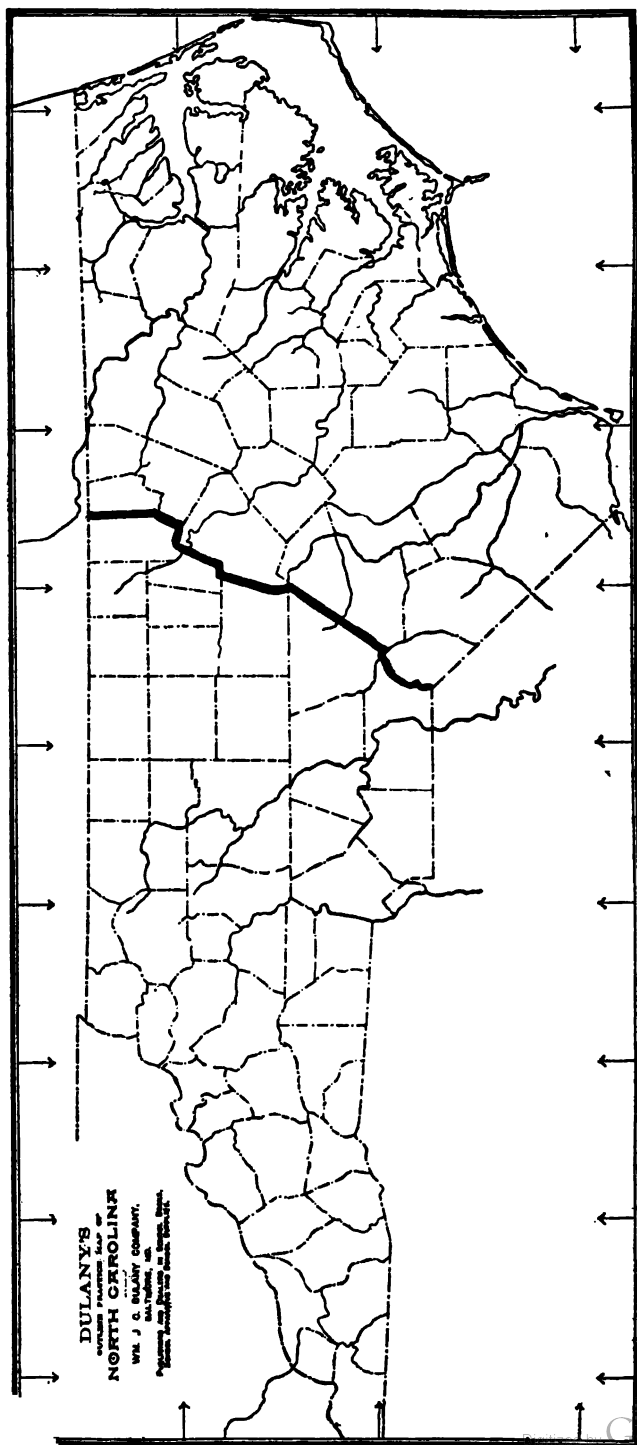
CHAPTER III.

WHIG SUPREMACY: 1835-1850.

When the revolted province of North Carolina framed her constitution in 1776 the constitution makers, regarding the counties as equal in population, accorded to each the right to elect a senator and two commoners to the General Assembly.¹ This arrangement was not inequitable at that date. The swamp and marsh region which fringed the coast and shut in Albemarle and Pamlico Sounds was divided into very large and thinly settled counties. To the westward the swamp region gave place to a rich alluvial district which was free from the ills of the lower area and, though extending beyond the upper limits of tide-water, was in easy communication with the sea by means of the great rivers, the Roanoke, the Tar, the Neuse, and the Cape Fear. This area, containing the bulk of the population of the state, was divided into counties of normal and convenient size. These small but populous and wealthy counties made up an irregular double tier which extended across the state from north to south approximately parallel to the general coast line. Behind these, to the westward, began the back-country, where the population again grew sparse and the counties correspondingly large.

As these large back counties began to fill up they grew dissatisfied with the basis of representation. Increase in population did not bring an increase in representatives as long as representation was based on counties. To split up the over-large western counties as their population increased was the natural course for the state government to pursue. But the central eastern counties, in control by virtue of their

¹ In addition, six towns, four in the east and two in the west, were each given the right to elect a borough member to the lower house.



THE VOTE ON THE CONSTITUTION OF 1835.
 West for Ratification. East against. Person County, marked ||, voted with East.

number, refused to assent to any plan whereby their existing advantage would be destroyed. Hence an eastern and a western party came into being. An imaginary line, definitely fixed in the minds of the people of both sections, ran across the state somewhat to the west of Raleigh,² dividing the east from the west as effectively as a natural barrier would have done. Dissimilar interests, opposite purposes, and often hostile feelings animated the two sections and urged them to a prolonged contest.³

A method of correcting the inequalities of representation other than by a division of counties was to reform the state constitution in such a manner as to permit the state to be divided into districts according to population and taxation and to make these districts the basis of representation. The west urged such a reform as early as 1790,⁴ and continued to press the movement from that date. At each successive annual Assembly petitions were presented for a reform in the constitution or for a just division of the western counties.⁵ The east as constantly refused to make any concession. By 1818 the inequalities in representation had grown so great that the demand of the west for reform became a threatening danger. The use of force was freely discussed and revolution as a last resource, though deprecated, was not counted among the improbabilities of the strained situation.⁶ The west, containing twenty-eight counties, had a majority of the population of the state, but the east, made up of thirty-four counties, had a fixed majority in the General Assembly.

In the legislative term of 1819-1820 the western members

² Cf. Speech of Wm. Gaston in N. C. Constitutional Convention of 1835. Debates, 124, et seq.

³ The differences between the east and the west after 1789 were in reality a continuation of the old pre-Revolutionary ill-feeling that had culminated in the Regulators' War of 1769-71. The basis of representation adopted by the constitution makers in 1776 gave the controversy a new lease of life.

⁴ N. C. State Records, XXI, 1052.

⁵ Raleigh Register, Dec. 3, 1799.

⁶ Cf. "Senator of Lincoln County" in Raleigh Register, Jan. 8, 1819.

made a determined effort to induce the east to come to equitable terms. The demand for a reform in representation was coupled with demands for the popular election of the governor and for general reform in the revenue and judicial systems. Debate upon the resolutions⁷ embodying the western plan of reform occupied nearly the whole of the legislative term.⁸ The main position of the eastern members, as developed in the debates, was that a just and republican principle did not require that numbers alone should govern; that one of the most important ends of government was the protection of private property; that counting property in slaves,⁹ the east was decidedly the wealthier of the two sections and, therefore, the existing mode of representation operated justly. This argument served to defer concession, the reform resolutions being defeated by a strictly sectional vote.

Despairing of legislative concession the western members of the Assembly determined, in 1822, to appeal directly to the people. Accordingly, after a caucus meeting they issued a call for a popular convention to meet in November of the following year to consider the question of reform. Extra-legal in its origin, this convention met at Raleigh upon the date designated, delegates from twenty-four of the twenty-eight western counties being present.¹⁰ No delegates appeared from the east. The ten days' session of the western convention accomplished but poorly the purposes for which it met. The main purpose had been to impress the east with the strength of the reform movement, but this object was almost wholly defeated by the development of a lack of harmony among the delegates present.

⁷ N. C. Senate Journal, Dec. 2, 1819.

⁸ These debates are published in *Raleigh Register*, beginning Dec. 10, 1819, and continuing for several months in its weekly issues.

⁹ Slaves were not, however, at this time, or ever afterward, taxed as property. A poll-tax of 50 cents on all slaves between the ages of 12 and 50 years was the greatest tax ever levied on this species of property in North Carolina.

¹⁰ The proceedings of this interesting convention appear in *Raleigh Register*, Nov. 14, 1823, and Nov. 21, 1823. Also in *Raleigh Star* of same dates.

A committee of five, appointed to draft amendments to be presented by the convention to the people, found great difficulty in reflecting the will of the delegates as to the kind of reform needed. The extreme western or mountainous counties, in which there were practically no slaves, wished free white population to form the basis of representation. The middle western counties, contiguous to the east and already large slave-holding counties, wished federal numbers to form the basis. The will of the latter prevailed in the committee, and the amendment relative to representation proposed that four thousand of federal population should be the unit of representation in the commons and ten thousand the unit in the senate. By this arrangement, should the state subsequently adopt the measure, the mountain counties would gain nothing, the east would lose nothing, the slave counties of the middle west would become identical in interest with the east and further reform be put off indefinitely. In the effort of the middle western counties to convince the east of their conservatism the amendments proposed¹¹ failed to include the abolition of the rotten boroughs or the popular election of the governor, measures for which the whole west had formerly made demands.

A second committee prepared statistical facts relative to the counties represented in the convention and those unrepresented and reported as follows:

Free population of entire state.....	433,912
Free population of represented counties.....	233,933
Free population of unrepresented counties.....	<u>199,979</u>
Majority of represented counties.....	33,954
Federal numbers in whole state.....	556,695
Federal numbers in unrepresented counties.....	<u>284,264</u>
Federal numbers in represented counties.....	<u>272,431</u>
Difference in favor of unrepresented counties.....	11,833

The committee further reported that the amount of taxes

¹¹ Raleigh Register, Nov. 21, 1823, contains all the amendments recommended. After that relative to representation, biennial instead of annual assemblies was perhaps the most important.

paid by the counties unrepresented in the convention was, approximately, \$10,000 more than that paid by the counties represented.¹² Hence the west had failed to prove its case, unless it was granted that free population should be the basis of representation—an assumption which the east had long since denied. Having adopted the reports of the various committees, and recommending a constitutional convention to the people, the western convention adjourned.

The succeeding General Assembly promptly refused to call the convention recommended or in any way to further the suggestions of the western convention.¹³ This action by the Assembly was tantamount to a declaration by the east that it would not meet the overtures of the middle western counties nor concede them a share in the control of the state. They were forced, therefore, to remain united with the mountain counties. The issue was accordingly kept alive, the fight immediately renewed¹⁴ and continued without intermission for another decade.

Already the two sections had attached themselves to opposing leaders in national politics. In 1824 the west supported Jackson for the presidency and the east supported Crawford. In 1828, when the east adopted Jackson as its candidate, the west grew lukewarm in his cause and by 1832 was definitely aligned with the new Whig party under the leadership of Henry Clay. Under the banners of Whig and Democrat the fight between the sections over constitutional reform now drew toward a conclusion favorable to the west.

At the election of assemblymen in August, 1833, the western or Whig party opened polls in thirty-three counties for a record of the people's votes for or against a convention. This polling was extra-legal and was conducted only in the western counties and in several detached eastern counties which had been converted to reform. But the re-

¹² The population statistics were based on the U. S. census report of 1820 and the tax statistics on the state comptroller's report for the same year.

¹³ Journal of N. C. Gen. Assembly, 1823, 128.

¹⁴ Carolina Watchman, June 15, 1824.

sult was 30,000 votes for, and only 1000 against, the convention. This demand for reform was too loud to be ignored. When the Assembly met in November a joint committee of the two houses reported that, in its opinion, had polls been opened throughout the state and under the sanction of law a large majority of the people would have cast their votes for a convention.¹⁵ The committee, therefore, recommended constitutional amendment and suggested that either of two methods might be employed: (1) a convention of the people, (2) legislative amendment. But of these two methods the committee, a majority of whom were eastern members, recommended legislative amendment, the results afterward to be submitted to the people.¹⁶ The legislative method would place constitutional amendment in the hands of the friends of the constitution, *i. e.*, the east, which had control of the legislature. The western members, however, refused to hear anything of this plan and continued to demand a convention. In consequence there was a deadlock and the session closed without agreement.¹⁷

The *Raleigh Register*, favorably situated for accurate observation, summed up the evil state of North Carolina politics in the following mild terms:¹⁸ "The members of the North Carolina Assembly are split into factions under the well-known standards of the 'East' and the 'West,' the 'Roanoke' and the 'Cape Fear,' and even when a revenue bill is to be considered their votes depend very much upon the circumstance from what quarter of the state its mover comes. Unaccustomed to consider subjects upon their merits, the crowd look only for their leaders. If the mover of a measure comes from the East the opposition of the West is assured, and *vice versa*." Such a condition of affairs, according to the *Register*, had wrought distraction

¹⁵ N. C. Legislative Documents, 1833, 94.

¹⁶ The Constitution of 1776 provided no plan for its amendment, hence the choice of methods.

¹⁷ Journal N. C. General Assembly, 1834, 244. Final postponement was carried by only four votes in the commons.

¹⁸ Raleigh Register, June 11, 1833.

and confusion in every branch of the government and completely clogged political energy and progress.

But a very remarkable man, David Lowrie Swain, was now governor of North Carolina and determined upon reform. He was born in Buncombe County—the very heart of the rugged mountainous area of North Carolina. His father was a New Englander who had settled in Georgia and later removed to western North Carolina.¹⁹ Without early educational advantages other than the little mountain hamlet of Asheville afforded, the younger Swain was a practicing lawyer at 22 years of age, a member of the General Assembly from his twenty-fourth to his twenty-ninth year—one year excepted—a judge of the Superior Courts at 30, governor at 31, and president of the State University at 35. Swain owed his rapid advance in political preferment to his intuitive understanding and appreciation of the qualities of his fellowmen and to the confidence with which he inspired them. In every sense he was a man of the people, and though sprung from the west he was equally trusted by the east. Inclined toward Whig principles, he was nevertheless elected governor by the Assembly in 1832, 1833, and 1834, and held himself sufficiently neutral between the sections to bring about the attempt at agreement made in the legislature in 1833. The failure of this plan aroused him to further effort and his message to the Assembly, November 17, 1834, began a new epoch in the political life of the state. Rising above sectional and party strife, he dealt with the subject of reform as a means to reinvigorate every department of the state's activity. He reviewed the sectional controversy from its origin in colonial times down to the present, and pointed out the utter impossibility of wise or liberal legislation until such conditions were ended.²⁰

Governor Swain's position, together with the force de-

¹⁹ Wheeler's *Reminiscences*, 57–58, for facts of Swain's early life. Also Wheeler's *Historical Sketches*, II, 53.

²⁰ This reform message of Gov. Swain is published in 47 *Niles' Register*, 221, and in all N. C. State papers of date.

rived from Mangum's thorough organization of the western or Whig party, now caused the east to give way, and in January, 1835, a convention bill was carried.²¹ The act provided that a popular vote should be taken on the question whether a majority of the voters should approve the convention; then the governor should fix a day for the election of delegates and a day for the convention. The same document further defined the limits of the convention's power in regard to representation, providing that the senate should be made to consist of not less than thirty-four nor more than fifty members, to be chosen by district according to public taxes, and the commons of not less than ninety nor more than one hundred and twenty members, apportioned by districts according to federal population. Thus, after all, the vital question of representation was determined by the east and in such a manner that the privileges of the whole slave area remained unaffected. Nothing would be lost by this section in the change from the county basis to federal population basis, for it possessed the bulk of the slaves. In fact there would be a gain in that the limits of the east would be extended further westward and made to include all the slave counties of the state.

When, however, the popular vote²² was taken on the convention question in April every western county save one gave majorities for the convention and every eastern county gave majorities against it; but the total majority for the convention was 5856 votes. The election of delegates followed a few weeks later.²³ The convention assembled in Raleigh, July 4, and remained in session until July 11. The aged Nathaniel Macon came forth from his retirement to act as chairman and to watch over the destinies of his state while the younger generation laid hands on its constitution.

The reforms made by the convention of 1835 may be

²¹ Public Acts of N. C., 1834, 35, Chap. I, part I.

²² Official returns, vote by counties, N. C. Standard, April 24, 1835.

²³ Two delegates from each county composed the convention, being elected on the same basis as the members of the commons. This assured a majority in the convention to the east.

briefly summarized. The election of governor was given to the people and the term of office increased to two years. Assemblies should meet biennially instead of annually. Sheriffs were henceforth to be elected by the people of the respective counties. Religious tests for office-holders and borough representation were abolished. Free negroes were disfranchised. The senate was thereafter to consist of fifty members and the commons of one hundred and twenty, chosen according to the provisions of the enabling act already noted.

The question of representation was now settled apparently to the general satisfaction of the whole slave area. Speaking broadly and disregarding the Quaker strongholds in Randolph, Chatham and Guilford, the slave area now included the whole state east of the foot of the Blue Ridge Mountains. If, after old scores were forgotten, sectional strife should be renewed the issue would be between the strong slave-holding section and the weak mountain counties. Yet, in 1835, it was confidently expected that mining and manufacturing would cause the spread of slavery into the mountains.²⁴ But this prophecy was never fulfilled to any large extent,²⁵ and twenty years later the mountain counties, in political combination with the marsh counties of the Sound region, were ineffectually demanding free white manhood suffrage as the basis of representation.

Governor Spaight in November laid the amended constitution before the people. The counties on opposite sides of the old sectional line, totally unused to agreement on any question, voted according to habit, every western county giving a majority for ratification and every eastern county, save one, a majority for rejection. The total majority for ratification, however, was 5165, being practically the same by which the convention had been called. The new or

²⁴ Debates, N. C. Constitution of 1835, 139.

²⁵ Each successive census marked a slight increase in the small number of slaves in the mountain region of North Carolina; but they were never sufficiently numerous to influence the political views of the people.

amended constitution went into operation at the beginning of 1836 and in August the first popular election for governor was held under its provisions. The result was a victory for the Whig or western party.

Though the Whig party now assumed the responsibility which had rested in the hands of the old anti-federal or state rights Republican party since 1793, it had as yet developed no principles antagonistic to state rights doctrine. Indeed for the first few years of its existence in North Carolina the Whig party was known by its adherents as the State Rights Whig party. But the application of a name did not enable it to usurp the place of the old Republican—now the Democratic—party, which in the minds of the people was always identified with strict construction principles. Moreover, the affiliation of the local with the national Whig party soon made the profession of strict construction principles inconsistent for the North Carolina Whigs. The national party, swayed by its stronger northern section, more and more tended toward liberal construction. To be strict constructionists in state and liberal constructionists in national politics placed the local Whigs in an equivocal position of which the Democrats were not slow to take advantage.

The Whigs retained their hard-won supremacy for fifteen years, however. Their power to do so was derived from two main sources: first, the perfection in organization attained in the struggle for reform; second, the adroitness with which the leaders reconciled the inconsistencies of their local and national politics. Both of these factors were essential to supremacy, for the period of the Whig régime, 1835 to 1850, was the period in which the national Whig party developed strong tendencies toward old federalist principles. It was the period of the struggle over the re-charter of the United States Bank; the period in which Texas was annexed and the Mexican War begun and concluded, in the train of which came the renewal of the controversy over slavery extension. Each of these issues

included constitutional points upon which the national parties could and did disagree. But this privilege of disagreement, at least in so far as slavery was included, was denied the local parties in North Carolina. The political edifice of the local Whigs, therefore, rested upon an insecure foundation from the date of its erection in 1835 until it toppled to its ruin in 1850 during the excitement attendant upon the second great slavery compromise.

The local Democrats knew well the potency of the argument against their opponents—that danger to slavery lurked in the councils of the northern Whigs.²⁶ The North Carolina Whigs, therefore, from the date of their supremacy, were forced to condemn with Democratic vehemence the evident tendencies of their northern partymen. The reception of the Vermont Resolutions in 1837, asserting the right and duty of the federal government to abolish slavery in the District of Columbia, afforded such an instance.²⁷ Both parties alike applauded Calhoun's speeches against the reception of petitions by Congress for abolition in the District, and both as heartily condemned Adams for their advocacy.²⁸

When the demand for the annexation of Texas grew strong in all the South and Henry Clay, the great Whig oracle, opposed it on the ground that acquisition of new territory was but sowing the seeds of strife over slavery, the North Carolina Whig press, ignoring Clay's attitude, pointed out the peculiar importance of Texas to the slaveholding states, and declared that with the acquisition abolition in the District or elsewhere might forever be set at defiance by the South; in fine, that "the annexation of Texas is essential to the future safety and repose of the Southern States of this Confederacy."²⁹ The Democrats themselves were not more ardent for Texas. The difference in attitude of the two local parties lay in the fact that, for party purposes, southern Whigs felt it necessary to con-

²⁶ *Standard*, March 21, 1837.

²⁷ *Raleigh Register*, May 9, 1837.

²⁸ *Star*, May 21, 1837. *Raleigh Register*, March 28, 1837.

²⁹ *Star*, Aug. 23, 1837.

cede to their northern allies that annexation ought not to be accomplished at the risk of war with Mexico. The refusal of the United States Senate to ratify the annexation scheme of 1838 postponed the question for a time, giving place in popular interest to the presidential election of 1840.

Despite his declared opposition to the annexation of Texas, Clay was decidedly the favorite of the North Carolina Whigs for the party nomination in 1840.⁸⁰ When, however, General Wm. H. Harrison received the nomination instead, his candidacy soon awakened unusual enthusiasm in North Carolina, as elsewhere. In the general tumult accompanying this campaign, unique in American politics, party principles were well-nigh forgotten. Van Buren, Democratic candidate for reëlection, was held equally responsible with Jackson, his predecessor and patron, for the financial crisis of 1837, for perversion of the federal patronage, and for the general executive usurpations of the last two administrations.⁸¹ The national Whig platform, demanding reform, was especially congenial to the local Whigs because their party had come to power on that issue in state politics.

The gubernatorial contest in August, 1840, was a decided Whig victory and foretold success in November. John Motley Morehead, with internal improvements as the issue, was elected over Romulus M. Saunders, the Democratic candidate, by a majority double that of the Whig success of 1838.⁸² The vote plotted by counties showed that the Whig party was coming to enjoy the confidence of a number of eastern counties. The old solidarity of the sections was beginning to be broken up by the alliance of the coast counties with the west. The Whigs began to feel firmly intrenched. Their confidence seemed still further warranted when the results of the presidential election in the state were known. Harrison electors had been chosen by a ma-

⁸⁰ Raleigh Register, Dec. 10, 1838, and July 6, 1839.

⁸¹ Cf. Schouler, *Hist. of U. S.*, IV, 341.

⁸² Raleigh Register, Sept. 8, 1840.

jority of 12,594, the total vote polled being the largest in the history of the state.³³ Harrison's overwhelming victory throughout the country seemed to the North Carolina Whigs a guarantee of stability and future harmony for the party.³⁴

The task of conserving the power now held by the Whigs in the state was to tax the efforts of the able Whig leaders who had created it. The foremost of these leaders were Willie Person Mangum, William Alexander Graham, George Edmund Badger, and Thomas Lanier Clingman. They did not force the state into a position of national prominence, for this was not the genius of her people, but they held her to the Whig allegiance during a decade in which the real interests of the South seemed to be represented by the Democratic party. Their position was a difficult one. The problem before them was, on the one hand, to preserve the unity of the northern and the southern sections of the party, and on the other, as practical politicians, to inspire the local Whigs with confidence in the national Whig policy. In the solution of this problem three of these leaders, Mangum, Graham, and Badger, together with numbers of their followers, caught a spirit of nationalism which, in the succeeding decade, came into violent conflict with the spirit of state individualism upon which the South relied when she felt her institutions threatened.

Of the triumvirate composed of Mangum, Graham, and Badger, the first two were in the United States Senate and Badger had recently been appointed secretary of the navy by President Harrison. Mangum had been the longest in public life and was regarded as the Nestor of the local party. As the leader of the western party he forced his election to the United States Senate in 1831. With a watchful interest in state politics he then arrayed himself as an opponent to the personal government of President Jackson, and sought to crystallize what local sentiment

³³ Official returns compared. *Raleigh Register*, Nov. 27, 1840.

³⁴ *Ibid.*, same date.

existed against Benton's Expunging Resolutions and against the legislative practice of instructing Senators. In 1836, however, he failed of reelection because he had refused to follow legislative instructions on "Expunging," and entered the Senate again only when, in 1840, the Whigs had secured control of both branches of the North Carolina Assembly. Upon the death of Harrison and with Tyler's elevation to the chief magistracy Mangum was elected permanent president of the Senate and served through the term of the administration.⁸⁵ Graham, like Mangum, was from the west, both being residents of the same county.⁸⁶ Both were slave-holders and in every sense identified with the slavery régime, yet both were, and remained, thoroughly opposed to the radical tendencies of the South on the question of state rights.

The North Carolina Whigs were in thorough sympathy with the purpose of the national party to recharter the United States Bank and restore the country to a sound and uniform currency. The state had suffered its full share in the crippling of the local banks during the financial stringency of 1838, and the people for the most part attributed the result to Jackson's destruction of the United States Bank.⁸⁷ Eight of the state's congressional delegation in 1841 were bank men and five were anti-bank men. It is probable that these members represented the proportional strength of the two parties. When Clay's first bank bill was under discussion in June, Graham and Mangum both stated in the Senate that North Carolina Whigs were unanimous for the recharter of the bank, and that many of the other party were favorable, provided it could be done without their coöperation.⁸⁸

When Tyler vetoed the first bank bill brought forward by Clay and a rupture of the party was imminent, North Carolina Whigs continued to hope for some means to pro-

⁸⁵ Wheeler, II, 336. Historical Sketches.

⁸⁶ Orange.

⁸⁷ Raleigh Register, April 13, 1841.

⁸⁸ Congressional Globe, June 24 and June 25, 1841.

mote harmony.³⁹ But when the second veto followed and it was seen that Tyler must be thrown overboard, no sign of hesitancy was apparent. Badger, with the full approval of the local party,⁴⁰ together with the remainder of the cabinet, Webster excepted, at once resigned. Mangum, from his position of influence in the Senate, directed the formal caucus at Washington which resulted in the Whig "Manifesto" that read Tyler out of the party.⁴¹

The break with Tyler did not affect the local situation. The Whigs showed a unanimity quite equal to that claimed by Mangum and Graham in the Senate and were in hearty support of Clay upon his issue with the administration. In the following year the Kentuckian's flag was nailed to the mast. But just before the national nominating convention in 1844 Clay visited the state and made several speeches which, though received with enthusiasm by his large audiences,⁴² nevertheless had a decided tendency to decrease the number of his followers. In his speeches and in a letter to the general public dated at Raleigh⁴³ he took the ground that Texas should not be immediately annexed. The leading Whig journals in the state, however, handled the subject with care and caution, expressing the desire to see Texas added to the Union, though not at the expense of the honor of the country.⁴⁴ When Clay was nominated it was inevitable that his position on the Texas question should alienate the most considerable portion of his support in the South. In the summer the outcome in North Carolina seemed very doubtful. The gubernatorial election occurred in August, resulting in a victory for Graham, though by a majority reduced to one-half of that secured by Governor Morehead in 1842.

In November it was found that the Whig margin was

³⁹ Raleigh Register, Aug. 20, 1841, and Star, Aug. 25, 1841.

⁴⁰ Raleigh Register, Sept. 17, 1841.

⁴¹ Benton, *Thirty Years' View*, II, 357.

⁴² Star, April 17, 1844.

⁴³ 66 Niles' Register, 439, and National Intelligencer, April 27, 1844.

⁴⁴ Raleigh Register, May 3, 1844, and Star, May 1, 1844.

still further reduced. Clay carried the state by 3945 votes only, a majority equal approximately to one-third of that given Harrison in 1840; and yet an even larger total vote had been cast in 1844 than in 1840.⁴⁵ South of the Potomac only Kentucky, Tennessee, and North Carolina were now in the Whig column. The other southern states that had been Whig in 1840 had, under the stress of the demand for Texas, transferred their allegiance to the Democracy.⁴⁶ The strong organization of the Whigs in North Carolina and the personal popularity of the candidate, notwithstanding his attitude toward Texas, saved the state to the Whigs at this time when the opposing candidate, Polk, stood for the enlargement of the slavery area.

After the removal of the fear of losing Texas⁴⁷ the North Carolina Whig leaders believed the opportunity had come for regaining their lost strength and for welding the whole Whig party into unity. To this end they firmly supported the policy of a protective tariff. By 1846 the state nominating convention was fully developed, thus making possible a much clearer insight into party principles. At these conventions each party spread its platform before the people in sets of printed resolutions which in themselves are instructive political documents. Since the election of a Whig governor in 1836 and the beginning of the Whig régime the tariff or protective policy had entered into all the political contests of North Carolina.⁴⁸ The tariff act of 1842 and the protective policy generally had been fully and freely discussed from the mountains to the sea. The result had been that the party favoring a tariff which would yield sufficient revenue, and at the same time so discriminate as effectually to protect the manufacturing and working

⁴⁵ The Official Returns, Raleigh Register, Nov. 24, 1840, and Nov. 19, 1844.

⁴⁶ Georgia, Louisiana, and Mississippi had cast their electoral votes for Harrison in 1840.

⁴⁷ President Tyler secured the annexation of Texas four days before he gave place to Polk.

⁴⁸ Cf. Speech of Alfred Dockery, of North Carolina, July 28, 1846. Cong. Globe, 1 sess., 29th Cong., 1160.

interests of the country, had in each instance since 1836 elected the governor. It had been alleged in 1840 that if a Whig president was elected the protective policy would be fastened upon the country; yet the Whig candidate received the vote of the state. The death of Harrison and the troubles which arose in the Whig ranks upon the accession of Tyler produced apathy and despondency in the Whig party here as elsewhere. Hence, though the Whigs elected the governor in 1842, the Democrats gained a temporary majority in the legislature and in that year elected William H. Haywood as United States Senator to succeed William A. Graham. Haywood entered the Senate as a Democrat in full accord with his party. But in 1846, when the Polk tariff act was passed to reduce the Whig tariff of 1842, Haywood, believing that the Whig measure was best for the country, resigned his seat rather than vote for the reduction bill.⁴⁹ Naturally the Senator was repudiated by his party; but his action was indicative of the strength of protective sentiment in North Carolina. George E. Badger was forthwith elected by the Whig legislature to fill Haywood's place. Badger, like his colleague Mangum, favored a tariff which would make the United States industrially independent. The state Whig convention of 1846 declared for a higher tariff on imports, "a tariff which furnishes incidental production to commerce, agriculture and manufactures," rather than that the revenue should be increased by direct taxation.⁵⁰

As an agricultural and slave state the position of North Carolina upon the tariff may very properly be termed unwise; but an examination of the facts makes it impossible to conclude that her attitude on the tariff question was altogether, or even in large part, the result of a desire to conciliate the northern Whigs. Undoubtedly such a desire had weight. But there had also long existed in the state,

⁴⁹ Congressional Globe, 1st sess., 29th Cong., 1141.

⁵⁰ Raleigh Register, May 15, 1846. Proceedings of the Whig State Convention.

especially in the west, a belief that the immense water power of the rivers could and one day would be utilized for the growth of large manufacturing interests.⁵¹ Yet it must not be supposed that the North Carolina Whigs were favorable to an outright protective tariff—one in which the revenue feature was lost sight of or made distinctly secondary. Such a tariff was not a part of the national Whig policy during the fifteen years of Whig supremacy in the Senate.

The attitude of the North Carolina Whigs on the subject of the United States Bank and on internal improvements has already been noted as in full accord with the national Whig policy. Hence only one great issue, that of slavery restriction, remained upon which the state party could not act in harmony with the national party and still retain supremacy. This issue was now looming into the greatest prominence, and if the southern Whig leaders failed to impress upon the whole party the importance of conservatism, then the whole Whig fabric would be destroyed.

Already there were causes for distrust of the trend of national Whig policy. That a large addition of territory on the southwest would result from the war with Mexico begun by the Democratic administration was a foregone conclusion. That the northern Whigs purposed that the addition should not be an enlargement of the area of slavery was shown in the terms of the Wilmot Proviso introduced into Congress in 1845.⁵²

When, in 1846, the Wilmot Proviso was attracting its first considerable attention, North Carolina was in the midst of an exciting gubernatorial election and gave little heed to external politics until it was over. Graham, the Whig candidate for reelection, had tactfully avoided national issues in the campaign and had emphasized such state ques-

⁵¹ Carolina Watchman, May 17, 1846.

⁵² The object of the Proviso was to prohibit the introduction of slavery into any part of the territory to be acquired from Mexico. Northern Whigs, aided by northern anti-slavery Democrats, pushed the measure through the House in 1846, and in consequence the whole South was soon awakened to its danger. See Benton, *Thirty Years' View*, II, 694.

tions as education, better highways, and railroads,⁵³ and the Proviso received little attention from either party. Graham secured his election by a much larger majority than in 1844.

Not until February, 1847, did an expression come from a Whig source that might be taken as an authoritative expression of the Whig party sentiment relative to the Wilmot Proviso, now so persistently urged. The *Raleigh Register*,⁵⁴ the official mouthpiece of the party, now spoke in no uncertain tone. Definitely setting forth the breach of sympathy between the northern and southern divisions of the party, it said:⁵⁵ "The unanimity with which the members of both parties from the non-slaveholding states have supported this slavery restriction proviso convinces us that we have no right to expect justice at the hands of either. It behooves the whole South, then, to cast about, and decidedly and unflinchingly resist any and every project which must inevitably tend to advance the unholy and mischievous purposes of those who have openly and willingly violated the Missouri Compromise. . . . It is time for party distinctions to sleep, and for the South to present a united front." The rank and file of North Carolina Whigs were already as ardent supporters of the war with Mexico as were the Democrats, but the Whig leaders were more mindful of the danger of wrecking the whole party upon the rock of the Proviso. Senator Badger's plan was one of prevention rather than cure. He opposed the whole plan of acquiring Mexican territory by any method whatsoever. "Suppose," he said, "the territory now sought be acquired, how shall we dispose of it? How shall we escape the agitation of the slave question—an agitation which, come when it will, must shake the Union from its centre, alienate one portion of our people from another, and either destroy our national existence or leave it without the support of mutual confi-

⁵³ *Raleigh Register*, July 28, 1846.

⁵⁴ *Raleigh Register*, Feb. 28, 1847.

⁵⁵ *Congressional Globe*, March 23, 1847.

dence or mutual kindness."⁵⁶ Mr. Clingman, in the House, was endeavoring to induce the northern Whigs to meet the southern wing of the party on some middle ground. In December he made a notable speech⁵⁷ to the House in which he attacked the abolitionists of the North and the disunionists of the South with equal vehemence. He urged the northern Whigs to agree to a division of the prospective territory by an extension of the Missouri Compromise line westward to the sea. Any conclusion, however, seemed yet afar off.

When Congress met in December, 1847, the Whigs had a majority in the House of Representatives. Accordingly, a resolution was passed which declared that the war with Mexico was unconstitutionally and unnecessarily begun by President Polk. Four North Carolina Representatives, among whom was Clingman, voted for the resolution. Two others were absent who would have voted affirmatively,⁵⁸ the six making up the Whig delegation. Senators Badger and Mangum also favored such a declaration. Though technically this declaration may have expressed an historical fact, its support by the North Carolinians was clearly a part of their policy of conciliation and ingratiating, used for the purpose of promoting party harmony. The state Whig convention of 1848 registered this edict of the leaders and reinforced it by a declaration that the local party was entirely opposed to wresting forcibly from Mexico any part of her territory.⁵⁹

This spirit of self-righteousness manifested by the North Carolina Whigs, though clearly meant for party purposes and as a means to an end in practical politics, laid them open to an attack from the Democrats on the score of recreancy to southern interests and southern rights. The Democratic convention characterized the resolution as giving aid and comfort to the enemy. The resolution, yoked

⁵⁶ Congressional Globe, March 23, 1847.

⁵⁷ Speeches and Writings of Thos. L. Clingman, 196.

⁵⁸ Standard, Jan. 12, 1848.

⁵⁹ Raleigh Register, Feb. 25, 1848.

with the Wilmot Proviso, was almost more than the local Whigs could bear in the way of party adversity. Undoubtedly they were in a precarious position. Totally opposed in principle to the spirit animating the great body of northern Whigs upon the subject of slavery extension, yet dependent upon harmony for its existence, the party found increasing difficulty in maintaining itself. But the power of its leaders and the excellence of its organization again elected a Whig governor in 1848; and these factors, reinforced by the fear of the Democrats that Lewis Cass, the Democratic nominee for president, was not sufficiently pro-slavery, placed the state again and for the third time successfully in the Whig column, giving its vote to the successful candidate, General Zachary Taylor.

CHAPTER IV.

SLAVERY AGITATION FROM 1850 TO 1860: PARTIES.

At the beginning of Zachary Taylor's administration, March 5, 1849, no conclusion had been reached by Congress as to slavery in the territories. Even before the signing of the Mexican Treaty, by which in 1848 a vast southwestern territory was added to the Union, the people of the United States had begun to grow excited over the probable passage of the Wilmot Proviso, the object of which was to exclude slavery from the grant. The South began to inaugurate measures to prevent such congressional action, the method most frequently employed being the passage of resolutions by state legislatures. These resolutions usually instructed congressional delegations, besides serving as an authoritative expression of the will of the people.

Early in January, 1849, a set of resolutions on slavery extension were introduced by the Democrats in the popular branch of the North Carolina General Assembly. The fourth resolution declared that the enactment by Congress of any law which should directly or indirectly deprive the citizens of any of the states of the right of emigrating with their slave property into any of the territories of the United States and of exercising ownership over the same while in said territories would be the use of power contrary to the true meaning and spirit of the Constitution.¹ The Democrats continued to urge such resolutions during the session; but the Whigs, with a majority in both branches of the Assembly, were unwilling to deny the constitutionality of congressional prohibition of slavery in the new territory. Senator George E. Badger, the most influential Whig in North Carolina, had recently given his opinion in the United

¹ Journal of the North Carolina House of Commons, Jan. 13, 1849.

States Senate that Congress had full power over slavery in the territories.³ Mr. Badger's reputation as a constitutional lawyer was national, and in the state his opinion always had great weight. The Whig legislature was disposed to follow him in admitting that Congress had such power, but deprecated its exercise as unwise and unjust. Resolutions embodying this view were passed on January 27, which closed with an admonition to all public servants of the state to discount whatever might suggest a suspicion that the Union could in any event be abandoned, and to repel every attempt to alienate any portion of the country.³

The secession spirit was active, however, in all the South, while there seemed imminent danger that slavery would be shut out of the Mexican grant south of the old Missouri Compromise line of 36° and 30'. Secession as a constitutional right was discussed in the halls of Congress and by every political sheet in the country. Southern and northern Whigs began to lose the power of common action. Representative Foote, of Mississippi, Democratic minority leader in Congress, wrote Thomas L. Clingman and other Whig Representatives of North Carolina in November, 1849, asking what position as southern Whigs they would assume in case the principle of the Wilmot Proviso, upon which the Whig party and the northern Democrats seemed about to unite, should, as was probable, come up in the congressional session about to begin.⁴ Mr. Clingman, in reply, took the ground that existing compromises ought to be acquiesced in; that the exclusion of slavery from all the new territory would be a policy entirely revolutionary on the part of the general government, and ought to be resisted. He leaned toward secession as the means of resistance.

Mr. Badger, on the contrary, replying to Mr. Webster in the Senate, admitted that a state had no constitutional right

³ Speech of Senator Badger. *Raleigh Register*, Nov. 14, 1848.

⁴ Resolutions, *Laws of North Carolina*, session of 1848-1849, 237.

⁵ This correspondence is published in the *Standard*, Nov. 28, 1849.

to secede from the Union, but claimed that, in point of fact, the Union would be broken if the South was driven to extremity.⁵ The divergence of the views of these two Whig leaders began a division in the Whig party in North Carolina both on the constitutionality of congressional exclusion of slavery from the territories and on secession. Badger's influence was preponderant,⁶ however, though Clingman's strategic position as Representative of the mountain district, a Whig stronghold, soon proved disastrous to the Whig ascendancy in the state.

Pending the settlement of the territorial question by compromise measures, in 1850 North Carolina, in common with other southern states, received the invitation of Mississippi to meet in a southern convention at Nashville for the purpose of emphasizing the South's demand that the Missouri Compromise line be extended to the Pacific. Though the convention was held, North Carolina sent no delegates and took no official notice of its existence, even the state Democracy considering the proposition premature. Separate state action was safest, most dignified, and least menacing.⁷ A southern convention was to be a last resort, for the odium which had attached to the Hartford Convention was remembered.

The Compromise measures of 1850 were expected by the Whig party to adjust the sectional differences over slavery extension. This result, however, was not attained. The Southern Rights Association, under the lead of William L. Yancey of Alabama, vehemently denounced the measures,⁸ and the Democratic press was almost unanimous in its repudiation. A large portion of the northern people were

⁵ Peele, W. J., *Lives of Distinguished North Carolinians*, 220, et seq., has Badger's speech in full. Cf. *Congressional Globe*, 31st Cong., 1st sess., 389.

⁶ Six Whig newspapers supported the views of Clingman and were influential in bringing about the Democratic victory in the gubernatorial election of 1850. The remainder still supported Senator Badger's views. See list as compiled by *Raleigh Star*, Nov. 21, 1848, and *Standard*, Nov. 21, 1848.

⁷ Cf. *Standard*, Nov. 28, 1849.

⁸ Hodgson, *Cradle of the Confederacy*, 280.

equally dissatisfied. The excitement attendant upon the capture of runaway slaves emphasized the broad differences between the views of northern and southern extremists. In North Carolina the Democratic party considered the admission of California as a free state to be more than a counter-balance for the benefits to be derived from the stringent fugitive slave law. Likewise, the shadowy rights granted to slavery in the remaining territory south of 36° and 30' were deemed unsatisfactory and far from permanent.⁹ Democratic resolutions were offered in the Assembly expressing a lack of faith in the whole compromise plan. These resolutions proposed an increase of taxes on land and polls for the purpose of defending the rights of the state when the contingency should arise.¹⁰ The Badger and Clingman wings of the Whig party had not yet ceased to act together and, assisted by a number of conservative Democrats, defeated the resolution by a large vote.¹¹ With the end of the year, however, the long period of Whig control came to an end, though the Whig principle of conservatism was not immediately abandoned by the state. Causes as influential as slavery extension were operative in the change from a Whig to a Democratic state administration, and these make an examination of the political conditions in the state here necessary.

David Settle Reid was chosen governor of North Carolina in August, 1850, being the first Democratic governor ever elected by the people. The state had been under Whig rule since the election of governor was given to the people by the reformed constitution of 1835. This constitution made federal population in the counties the basis for distribution of the one hundred and twenty members of the house of commons and for the election of governor.¹² Taxes were made the basis for the senate, and voters for senators must

⁹ Standard, Dec. 17, 1850.

¹⁰ House Journal, 1850-1851, 592.

¹¹ The vote in the house was 82 for and 20 against the resolutions.

¹² Previous to this date, 1850, the General Assembly had elected the governors.

own fifty acres of land.¹³ The constitution was a compromise between the diverging interests of the slave-holding east and the non-slave-holding west, and had been adopted by a strictly sectional vote. The settlement of the question of representation had not satisfied the west, but was the best attainable at the time. Slave population did not spread uniformly over the state. The west found no use for slaves in the wooded coves of the mountains or on the thin lands of the eastern slope. The white population of the west was also much less stable than that of the east. Men kept constantly pushing along the mountain's foot to the newer and richer lands of the southwest, while many crossed the mountains and set their faces toward the Mississippi Valley and the far west. California and gold-mining had a far stronger influence in the western counties of the state than among the slave-holders of the middle and eastern counties. Hence no slight political advantage accrued to the east by the addition of three-fifths of its slaves to its more steady white population. Moreover, the slaves were counted again as property in the apportionment of senators.

In 1848 Reid succeeded in inducing his party to accept "free suffrage" as a plank in its platform, a proposition of which he was the author.¹⁴ The plan proposed to amend the state constitution by an abrogation of the freehold qualification of voters for senators, and to apportion the senators as were the members of the commons, that is, on the federal basis. It liberalized the franchise only so far as to permit non-freeholders to vote in all elections. This concession gave the plan a popular impulse among the landless class in both the east and the west.

Western men, however, who analyzed the proposition readily saw that slight benefit was to be derived by their section from its operation. What they would gain in the destruction of the property qualification would be lost when three-fifths of the slaves of the east were counted in the

¹³ Constitution of N. C., 1835, Sec. 5.

¹⁴ Wheeler, J. H., *Historical Sketches of North Carolina*, II, 355.

apportionment. Reid was defeated in 1848, though his measure had developed unexpected strength and was to be again brought forward in 1850. The western leaders, in order to stem the popular impulse toward the Democratic plan of "free suffrage," now proposed a plan far more radical in scope than anything contemplated by the Democrats. They offered to abrogate both the freehold qualification and the federal basis and to substitute free white manhood suffrage in all elections.

The white basis plan did not meet the approval of the Whigs in the middle and eastern counties.¹⁵ Deriving power from federal representation, they were loath to give it up. This left the mountain counties only in support of the white basis proposal. Reid was elected in 1850 over the divided opposition and both branches of the General Assembly became Democratic at the same time.¹⁶ The "free suffrage" amendment could not yet be effected, however, since a two-thirds vote was required by the constitution to change any of its features. The vote in the senate was along sectional lines, being 33 for and 17 against.¹⁷ In the house the majority for the amendment was smaller in proportion to numbers.

In preparation for the next election the Whig members of the Assembly made an attempt to harmonize the opposing elements in their party. An address was issued to the people in which the constitutional history of the state was reviewed and the grievances were recapitulated which the west had suffered since 1776. By the census of 1840—the basis of the last apportionment—it was shown that seventeen western senators represented an actual majority of the white inhabitants in the state, while the remaining thirty-three represented the minority east and its property in slaves and land.¹⁸ A convention of the people was recommended to

¹⁵ Bassett, J. S., *Suffrage in N. C.*, 131.

¹⁶ *Raleigh Register*, August 14, 1850.

¹⁷ *Senate Journal*, 1850-1851, 338.

¹⁸ This address is published in *Raleigh Register*, Jan. 11, 1851, and Feb. 1, 1851. The line between east and west was naturally drawn

amend the constitution as against the Democratic plan of amendment by legislative enactment. It was clear from the address, however, that the majority did not wish to destroy the federal basis of representation in the lower house. The trans-mountain men were unable to secure a recommendation of the white basis and the situation remained unchanged. The Democrats successfully reelected Reid on the "free suffrage" issue again in 1852, though they were still unable to carry the measure through the Assembly by the requisite two-thirds majority. By 1854 the white basis idea had lost some of its support, or many of its adherents had recognized the impracticability of securing their demands. The regular Whig convention specifically stated that no change from the federal basis was desirable.¹⁹ The western Whigs met in a dissenting convention in the mountains and threatened to put out a white basis candidate.²⁰ The movement came to naught, however, beyond further weakening the party. In November the Democrats were strong enough to pass their "free suffrage" bill; it was ratified by the succeeding Assembly as required by the constitution, and approved by the people the following year.²¹

Governor Reid carried his suffrage measure to a successful conclusion, but he was less effective in causing the state to assume a radical attitude toward the federal government. His first message after inauguration in 1851 recommended coöperation with the other southern states in taking the steps necessary to maintain the compromises of the Constitution.²² His words were generally understood to be a threat of secession.²³ Both branches of the Assem-

arbitrarily, else the western division could not have contained a majority of the population. See census report for N. C., 1840. Also reduced census results of 1850 in Wheeler, *Sketches*, Vol. 8.

¹⁹ Whig Convention Platform, *Fayetteville Observer*, Feb. 24, 1854.

²⁰ This convention of seceders met at Hendersonville. An account of it is in *Fayetteville Observer*, April 24, 1854.

²¹ Laws of North Carolina, 1855, 1857, 12 and 13.

²² Reid, MS. Letter-book, 140, Message to the Assembly.

²³ *Raleigh Register*, Jan. 8, 1851.

bly were safely Democratic, yet a radical report,²⁴ which declared secession constitutional, failed of adoption, and in its stead was substituted another of a conciliatory tone.²⁵ Western Democrats generally, with the Whigs, supported the conservative report.²⁶ This result was due to the feeling of common interests between the small number of western Democrats and the Whig party, and is evidence that "free suffrage" rather than the renewed national slavery agitation was responsible for the Democratic victory in the last state elections.²⁷ By this action of the Assembly the resistance doctrine advocated by the governor received a check, and public opinion was prevented from growing further excited over the possible wrongs in the compromise measures.

The Clingman and Badger factions of the Whig party in North Carolina looked to the national Whig convention of 1852 to close their differences. The nomination of President Fillmore would satisfy both, and was the only condition upon which Clingman and other radical southern Whigs would remain in the party. Fillmore had satisfied the southern Whigs by his attitude toward slavery and his faithful execution of the fugitive slave law, and in consequence had become distasteful to the northern extremists of his party. Therefore, when Fillmore's claims were set aside and General Scott received the nomination instead, Mr. Clingman considered it a triumph of the Seward or anti-slavery faction and immediately severed his connection with the party.²⁸ The convention nominated William A. Graham of North Carolina for the vice-presidency upon the ticket with General Scott, but this did not compensate the party in North Carolina for the loss of Mr. Clingman, who now supported Franklin Pierce, the Democratic candidate.

²⁴ House and Senate Documents, 1850-1851, 245, 261.

²⁵ *Ibid.*, 243.

²⁶ Speech of N. W. Woodfin of Buncomb, Raleigh Register, Jan.

²⁷ Representative Clingman had not yet definitely withdrawn from the Whig party.

²⁸ Speeches and Writings of T. L. Clingman, 308-309.

Graham was secretary of the navy in Fillmore's cabinet but gave close attention to North Carolina politics.

The platforms of both the Whig and Democratic state conventions, following the example of the national parties, affirmed the finality of the compromise measures of 1850, thus leaving nothing apparently to choose between the parties on that score. In congressional representation North Carolina was yet Whig; both Senators were Whigs,²⁹ and six of the nine congressional districts had elected Whigs in 1851. These were the two extreme eastern and the four western. The Democrats held the three central strong slave-holding districts. This was the usual alignment,³⁰ and had been preserved practically since 1835. Clingman's defection, however, decided the result of the election in North Carolina; five western counties which had hitherto been Whig, under Clingman's influence now gave Democratic majorities, making up the total majority for Pierce electors 686 votes.³¹

Disaffection in the mountain district was fatal to the state Whig organization. This region, more than any other, was free from the economic and social conditions which elsewhere produced a tendency toward particularism. It had long been looked upon as a stronghold of the Whig party. Conservatism was not abandoned in principle, yet it was evident that Clingman, for the time being, would control the district in the interest of the Democratic party.³² Moreover, the national organization was breaking up. It could not longer exist composed of such opposing elements as those represented by Seward and Greeley in the North and by Toombs and Clingman in the South. The Whig spirit continued to live in North Carolina and to oppose particularistic doctrine until the end of the decade.

The year 1853 was devoid of political interest in North Carolina. It was a period of quiet preceding the beginning

²⁹ Messrs. George E. Badger and Willie P. Mangum.

³⁰ See Chapter III.

³¹ Election Returns, *Standard*, Nov. 17, 1852.

³² Cf. *Fayetteville Observer*, Nov. 24, 1852.

of the final legislative struggle in national politics over slavery. The people were not conscious, however, that a new agitation was near and were quite unprepared for the developments of 1854.

The Kansas-Nebraska bill, introduced in the United States Senate on January 4, 1854, by Stephen A. Douglas, became a law by the signature of President Pierce, May 20, following. Its provisions repealed the Missouri Compromise Act and substituted the principles of popular sovereignty to determine the question of slavery in the territories. During the months in which the bill was pending in Congress the southern Whig party was peculiarly situated. The measure being Democratic, the Whigs at first seemed disposed to oppose it on party grounds as well as from a fear of renewed agitation should existing compromises be disturbed. In North Carolina the first impulse was to distrust the measure.⁸³ Douglas' motives were supposed to be for his own personal advancement, and the fear was expressed that the South, like ancient Troy, was invited to accept a Grecian horse.⁸⁴

Senator Badger, however, was an earnest supporter of the bill. As proof to his northern partymen that it was a sincere effort to remove the slavery question from the halls of Congress, he secured the adoption of an amendment which specifically forbade the revival of slavery under the old French law when the Missouri Compromise Act should be repealed.⁸⁵ Only two of the Whig Representatives from North Carolina refused to vote for the bill upon its first

⁸³ Raleigh Register, Feb. 1, 1854, said: "We confess that we doubt the utility of disturbing the Missouri Compromise, which was acquiesced in by the South as the condition of the admission of Missouri as a slave state—though we hardly know what modification our views may undergo. The North may say that by attempting to repeal the slavery restriction clause, the south has violated a solemn compact, and it will be difficult to refute the charge. The bill at all events will be the rallying cry for another anti-slavery agitation which will far exceed any which we have yet had."

⁸⁴ Fayetteville Observer, April 3, 1854.

⁸⁵ Congressional Globe, 1st sess., 33d Cong., 520. Senator Willie P. Mangum's seat had been vacant since the beginning of the year and the N. C. Assembly had not yet elected his successor.

passage in the House.⁸⁶ The Whig state convention had met in February and declared in favor of the principles of non-intervention, but did not specifically mention the Kansas-Nebraska bill.⁸⁷ By the middle of the summer the party was as enthusiastic in its support as were the Democrats, who from the first had hailed it as a long-delayed but welcome agreement with the North as to a just settlement of the question of slavery.

The Democrats in 1854 nominated Thomas Bragg to make the race for governor with Alfred Dockery, the Whig candidate. The lately enacted Kansas-Nebraska bill gave to the campaign the character of a congratulatory celebration. The convention had endorsed the measure and extended thanks to Senator Douglas for its inception and to other members of Congress from non-slave-holding states who supported it.⁸⁸ In strong Democratic centers the returned congressmen, both Whigs and Democrats, were tendered public dinners, and an era of good feeling was inaugurated. Bragg was elected governor. In the fall ex-Governor Reid displaced Mr. Badger in the Senate,⁸⁹ so with the exception of three congressional districts the Democrats now had complete control in the state.

The South had hardly settled into a pleasant enjoyment of the thought that the whole country had returned to a sense of justice on the slavery question before it began to be understood that the intense hostility of northern Whigs to the act which repealed the Missouri Compromise much more nearly represented the sentiment of the northern people than did the complaisant and accommodating attitude of northern Democrats. By July it began to be bruited in North Carolina that the indignation of the North was something more than a mere ebullition of popular feeling. Fear

⁸⁶ These were Messrs. Sion H. Rodgers and R. C. Puryear.

⁸⁷ Proceedings of the Whig State Convention, *Raleigh Register*, Feb. 25, 1854.

⁸⁸ Democratic Convention Proceedings, *Standard*, April 22, 1854.

⁸⁹ Asa Biggs, Democrat, received the second senatorship and retained it until 1858, when he made place for T. L. Clingman by resignation.

was expressed that an issue had been drawn upon which there was great danger of northern party factions uniting.⁴⁰ On August 23 the *Standard* published the proceedings of the Anti-Nebraska Convention held at Saratoga, in which Horace Greeley declared war on slavery, alleging that the South had broken its compact. Already emigrant aid societies, supported by popular subscription and backed by intense popular enthusiasm, were preparing in the North to contest the soil of Kansas with the slave-holder. The reflex feeling in the South brought renewed discussion of secession and the whole country was soon again in a glow of excitement over the rival efforts of northern and southern factions for supremacy in Kansas.

The features of this long drawn out struggle are too familiar to require a review in this connection. Its influence upon conditions in North Carolina was not essentially different from that upon other southern border states. The Whigs were too far committed by their approval of the Kansas-Nebraska Act to claim exemption from responsibility for its results. Both parties felt that its miscarriage was due to the breaking of a tacit agreement by the northern people.⁴² The logical course for parties in the state would have been a coalescence under the influences of the Kansas contest. This was the tendency; but there were fundamental differences in the basis upon which the political as well as the economic and social life of the people was organized which prevented its actual accomplishment. The Whigs necessarily remained an opposition party because a very large number held different views from the Democrats both upon the importance of slavery and upon the constitutionality of methods of redress when the institution was attacked.

The presidential election of 1856 came in the midst of the Kansas excitement, and North Carolinians were not with-

⁴⁰ *Standard*, July 5, 1854.

⁴¹ *Standard*, Sept. 20, 1854.

⁴² *Fayetteville Observer*, Sept. 11, 1854. It had been expected that Kansas would become a slave state without opposition from the North, and Nebraska a free state unmolested by the South.

out grave fears as to the probable results. In the North the Republican party had been organized upon the ruins of the Whig party. John C. Frémont was the candidate, upon a platform which in spirit was inimical to slavery even where already existing. Congressional election returns indicated that the party had already developed remarkable strength. The Democrats nominated James Buchanan upon a platform which embodied the principle of the Kansas-Nebraska Act, and the South seemed determined upon making his election the condition upon which it would remain in the Union.

In October Thomas L. Clingman published an address to the people of North Carolina in which he outlined a plan for disunion in the event of the election of the Black Republican candidate.⁴³ This plan possessed no features distinguishable from former methods suggested, but it served to familiarize the Democrats with the use of an effective campaign weapon. It is difficult to determine what effect the election of Frémont in 1856 would have had upon the state or upon the South. Certainly a few Democratic leaders, among them Senator David S. Reid, W. W. Holden, and Mr. Clingman, were as earnest in their advocacy of secession in the event of party defeat as were any of the Hotspur leaders of the cotton states. Moreover, the opposition party was in a peculiarly disorganized state and was not prepared for the issue.

The people showed evidences of unusual excitement.⁴⁴ On October 13 Governor Wise of Virginia and Governor Adams of South Carolina were guests of Governor Bragg in Raleigh, and Governor Johnson of Georgia was confidently expected. The ostensible purpose of the visit of these neighboring governors was to attend the state fair then about to begin. Speculation was rife as to the significance of the meeting, and a rumor was afloat that a dissolution of the Union was to be discussed and a plan of action

⁴³ Clingman's Address, Fayetteville Observer, Oct. 18, 1856.

⁴⁴ Standard, Sept. 13, 1856.

agreed upon in advance of the November election. No evidence is forthcoming, however, that the meeting had a political object. But the event was unusual, especially so in that the governors took their departure one day before the opening of the fair. Many viewed the conclave as a portent of disunion.⁴⁶

Though the whole of the year 1856 was a period of excitement in North Carolina, the strong undercurrent of the state's conservatism was exhibited by the people's attitude toward the Brooks-Sumner affair in the United States Senate. Irrespective of party, Brooks' conduct was very generally condemned as an outrage.⁴⁶ On his way to his home in South Carolina Representative Brooks spent a night in Raleigh, and a number of citizens gathered at his hotel in the evening and requested a speech. His remarks seem to have reduced the slight sympathy in which his act had hitherto been held.⁴⁷ Buchanan's success in the state and in the national election in November was greeted as a welcome relief from the political turmoil of the year. The triumph was marred, however, by the import of the overwhelming victory of Republican electors in twelve northern and northwestern states.

The American or Know Nothing party served meanwhile as a party shelter to the Whigs in the North who refused to enter the Republican party and to those in the South who refused to become Democrats. Founded upon opposition to the influence of Catholics and foreign immigrants in American politics, this party had, in the South, no real reason for existence.

European immigrants did not come in any large numbers

⁴⁶ Raleigh Register, Oct. 15, 1856. The editor of the Register, dis regarding the rôle of host, blazed out fiercely against the supposed "schemes of treason and disunion," and demanded that the people should know by whose invitation the governors came, why they met just in time for the returns from some of the northern elections, and why such an official attempt was made to hitch North Carolina to "the car of disunion."

⁴⁷ Fayetteville Observer, June 2, 1856.

⁴⁸ Cf. Raleigh Register, Sept. 3, 1856.

into the slave states; North Carolina received practically none at this date, yet the American party found good political soil in the state, many of the Whigs entering it with the hope of preserving a national party entity.

Recording the death of the state Whig party and the birth of the American party in the same issue, the Democratic press warned the people to beware of the "dark lantern movement."⁴⁸ Nevertheless, the party rapidly developed strength, and early in 1855 district councils were held and candidates nominated for Congress. In the succeeding election in August three congressmen were elected by the Americans, and they polled 45 per cent. of the total vote in every district carried by the Democrats.⁴⁹ In 1856 John A. Gilmer was nominated to oppose Governor Bragg in the gubernatorial contest. Gilmer was the American representative of the fourth district,⁵⁰ which, in large part, was made up of counties inhabited by the Friends and known in state politics as the "Quaker District." Like his peaceful constituents, Gilmer was thoroughly conservative, yet he was an active and aggressive combatant of Democratic particularism.

Notwithstanding Gilmer's active leadership, the enthusiasm which greeted the party upon its entry into the state had now begun to disappear. The novelty of secret political organization soon wore off, and the people did not feel that the principles upon which the party was founded were vital. Kinship to ancient federalism was a stigma difficult to remove.⁵¹ In the election Bragg carried the state by a

⁴⁸ Standard, Sept. 23, 1854. The term "dark lantern" was in reference to the secret feature of the American party organization and to the practice of meeting at night.

⁴⁹ Official Returns, Standard, Aug. 22, 1855. By the 1854 apportionment the state's representation was reduced from nine to eight.

⁵⁰ This district was traditionally conservative. The Quakers, while careful not to antagonize the laws under which they lived, were anti-slavery in principle and practice. They emancipated their own slaves at the earliest date practicable under the laws and colonized many of them in Hayti. See Weeks, Stephen B., *Southern Quakers and Slavery*.

⁵¹ Standard, April 28, 1855.

majority of 12,594 votes, the result being proof to the Americans that their party could never command the strength of the old Whig organization. Consequently disintegration began. The tendency was to return to original Whig principles and to attempt to revivify that party with the safety of the Union as the party slogan. The greatest practical hindrance in this undertaking was the total submergence of the Whig organization in the North.

The same issues of papers in North Carolina which published President Buchanan's inaugural address in March, 1857, published also the decision of the United States Supreme Court in the Dred Scott case.⁵² Public attention, which had in part been withdrawn from Kansas for a time and absorbed to an unusual degree in the presidential contest, was riveted anew by this famous decision upon the still unended struggle in that territory and upon slavery in general. North Carolinians expected the decision to put an end to slavery agitation. They believed that abolitionism had been stunned, faction and treason in both sections of the Union rebuked, and the Constitution restored.⁵³ W. W. Holden, speaking for the Democracy, said: "This decision concedes to the southern people all they have ever asked—the Constitution. If they are true to themselves they will never take anything less." The fact that the North hailed the decision with a loud protest, and in some quarters with ridicule,⁵⁴ did not diminish the people's faith in its efficacy.

⁵² For this case see Howard, U. S. Supreme Court Reports, vol. XIX, 293. The main questions involved were: first, whether a negro was a citizen and competent to sue in the courts of the United States; second, whether the legal condition of a slave as property was affected by his sojourn in a free state; third, whether the Missouri Compromise Act, prohibiting slavery in the territories north of 36° 30', was constitutional. Each of these questions was answered in the negative by the majority opinion of the court.

⁵³ Cf. Standard, March 18, 1857.

⁵⁴ Horace Greeley, in the New York Tribune, asserted that the decision was entitled to just so much moral weight as would be the judgment of a majority of those collected in a Washington bar-room. Quoted in Fayetteville Observer, March 15, 1857.

The result of the Dred Scott decision with which we are chiefly concerned was its effect upon the national Democratic party. Senator Douglas remained firm in his insistence that popular sovereignty should decide the issue in Kansas, while President Buchanan claimed that the point was immaterial after the Supreme Court's dictum. The disagreement forced Douglas to act with the Republicans in opposition to Buchanan's plan of admitting Kansas to statehood under the Lecompton Constitution.⁵⁵ The northern Democrats in support of Douglas were thus broken away from the southern section of the party which supported the President.

Though North Carolina, in common with the other southern states, upheld the President's policy, there was a strong dread on the part of the Democrats of giving up Mr. Douglas and the hope of coöperation with his followers. The decision of the party seemed to make a Republican victory sure in 1860. Even radical Democrats remembered that the South, even if united, was in the minority in the Union, and that protection could not be had without the aid of northern statesmen and northern voters. Should the division continue through President Buchanan's term a crisis was expected to arrive with the next election.⁵⁶

In North Carolina gubernatorial elections occurred in the even years and congressional elections in the odd years. In 1857 the Democrats were successful in every congressional district save one—the Quaker district—which reelected John A. Gilmer. Still, the best known leaders in the state, Messrs. Mangum and Morehead, Badger and Graham, refused to enter the Democratic party which they had opposed so long upon fundamental differences of principle. Thomas L. Clingman, however, had been definitely gained, and his power over the western counties which again reelected him

⁵⁵ The Lecompton Constitution was the constitution of the pro-slavery men in Kansas. The pro-slavery leaders refused to submit the slavery cause to the voters, and thus designed to defeat the principle of Senator Douglas' plan.

⁵⁶ Standard, July 22, 1858.

to Congress made Whig rehabilitation a slow process. Yet personal antagonisms were beginning to show among the leaders of the paramount Democracy, and drew the attention of the people away from national and centered it upon home politics. The next Democratic state convention began a serious division in the party's ranks.

This convention, called to nominate a candidate for governor, met at Charlotte, April 14, 1858. It was expected that the transfer of the convention this year from Raleigh, its usual seat, to a western town, would greatly strengthen the Democratic feeling of the whole west, which was already fast gaining under the tuition of Mr. Clingman. W. W. Holden was chairman of the Democratic state executive committee, and his intention to become a candidate for the nomination also had an influence in taking the convention to Charlotte. Holden's supporters were mainly in the west among the new non-slave-holding Democrats.

The platform adopted by the convention was short and succinct.⁵⁷ It cordially approved the Buchanan administration and endorsed the President's position in favor of the immediate admission of Kansas under the Lecompton Constitution, regarding the measure as essential to the quiet of the country. In the narrower field of state politics the convention pledged the party to the completion of the works of internal improvement already begun and the construction of such others as might be deemed expedient. This was a concession also to the western voters who were clamorous for the completion of the western North Carolina Railroad now already begun toward the mountains from Salisbury. The platform, however, was not so much the center of general interest as was the probable nominee for governor.

John W. Ellis, a circuit court judge residing at Salisbury, and W. W. Holden, editor of the *Standard*, were the opposing candidates for the nomination. For reasons to

⁵⁷ Democratic Platform and Convention Proceedings, *Standard*, April 21, 1854.

be explained hereafter Mr. Holden was not an acceptable candidate to the eastern slave-holders, who exercised a preponderating influence in the party councils. They preferred Ellis, who, though a middle western man, was allied by birth, sympathy, and interest with the aristocratic régime of the slave-holding Democracy.

An adroit move on the part of Ellis' followers secured as the rule for voting in the convention the majority of the Democratic strength of the counties, *i. e.*, that the delegation from each county should cast as many votes as their county had cast for the Democratic candidate in the gubernatorial election of 1856, and that a majority vote should nominate. This rule militated seriously against Holden's chances, since of course the eastern counties which were opposed to him had given much heavier Democratic votes than had the western counties which supported him. Yet in the preliminary skirmishing the chances of the opponents seemed equal until the deflection of one strong eastern delegate, whose influence had been pledged to Holden but who was afterward won over for Ellis by the eastern men. Ellis was nominated on the first ballot; Holden received the votes of only three eastern counties, while nearly all the western counties were cast for him. The result was not only a disappointment to Holden, who, on account of the invaluable services he had rendered the party had a right to expect the nomination,⁵⁸ but was also the entering wedge of a class distinction which seriously hampered the party at a later date.

The personality of both Holden and Ellis requires attention in this connection, not only because of the subsequent influence of each upon the Democratic policy in North Carolina, but because even at this date they represented radically different elements within the party and the state. Ellis was

⁵⁸ For the conclusions drawn from the results of this convention the author has relied upon newspaper comment of both parties and upon the personal evidence of Mr. John A. Nichols, of Raleigh, who was personally familiar with the course of state politics at the time.

decidedly aristocratic both by inheritance and training.⁵⁹ A typical English southerner of the slave-holding class, he had habits of authority and command indelibly stamped upon his character. After having received good early training he entered Randolph-Macon College in Virginia, where he spent several years. Later on he took his degree at the University of North Carolina. He read law for two years and came to the bar in 1842, at the age of 22 years. After serving several terms in the house of commons, in 1848 he was elected a judge of the Superior Court and served the bench with ability until his nomination for governor in 1858. His relation to North Carolina history from 1858 until his death in 1861 shows that Governor Ellis was a man of the strictest state rights views, and that he possessed the courage of his convictions. He recognized much earlier than did the state at large that North Carolina was destined to act with her sister slave-holding states, and he bent his energies toward preparation for the crisis.

William W. Holden was his opposite in origin, training, and character. Born in poverty and obscurity, of the most humble parentage, in a slave-holding district where social and intellectual eminence was rarely attained by those outside the pale of the politico-social aristocracy, Holden had by indomitable will and sheer energy forced his way up to a position of peculiar power in the state. As a boy Holden had no educational advantages beyond such as he obtained by apprenticing himself to the editor of a Whig newspaper in Hillsboro, the old state capital, in his native county, Orange.⁶⁰ In 1848, a young man, he came to Raleigh seeking employment in a larger field. There he found an unexpected opportunity. The state had been consistently Whig for a decade. The fortunes of the Democratic party were at such a low ebb that the aged editor of the party organ, the *North Carolina Standard*, despairing of party success

⁵⁹ The author is indebted to Wheeler, J. H., *Reminiscences*, page 405, et seq., for facts relating to the early life of Governor Ellis.

⁶⁰ This newspaper was the Hillsboro Recorder, edited by Dennis Hart, a man of unusual force and originality.

in his time, wished to give up the paper. The managers offered the editorship to Holden, who, though of Whig training, was young enough to make a new party alignment. In point of fact, party principles seem to have been no great obstacle to him when weighed against his necessity for a business and political opportunity. He promptly accepted the offer and assumed control. The opportunity was a stimulus to his ambition and, with a hope of ultimate success, he threw himself into the task of reviving the state Democracy.⁶¹

To Holden's efforts were due in large part the popularizing of the Democratic "free suffrage" measure of 1848 and D. S. Reid's election in 1850.⁶² This was a task the more congenial to him because the success of the measure involved to an extent the democratization of the Democratic party, and hence was in line with his own feelings as one of the common people. Both as an editor and as a practical politician Holden was invaluable to the party in keeping Democratic principles dominant from 1850 to 1860. Though he defended slavery with great ability, Holden always remained without the personal service of slaves, a representative of the artisan classes, whose confidence he fully possessed. He never inspired, however, the full confidence of the slave-holding aristocracy, and to this it was generally understood⁶³ was due his defeat for the nomination at Charlotte. His nomination in the convention would undoubtedly have strengthened the party among the non-slave-holding classes, but on the contrary the denial of his claims alienated them. Antagonisms were veiled, however, and the break was not abrupt.

In the campaign Ellis had no organized opposition; the Americans did not have a candidate and Duncan K. McRae, a former Democrat, opposed him independently. McRae's declared purpose in turning free lance was to call the atten-

⁶¹ See Boyd, J. K., Monograph. *The Life of W. W. Holden.*

⁶² Bassett, J. S. *Suffrage in North Carolina*, published by the Amer. Hist. Assoc., 1895, 282.

⁶³ *Raleigh Register*, May 6, 1858.

tion of the people from slavery alarms and fix it upon the needs of manufactures, internal improvements, and education, all of which were in a depressing condition.⁶⁴ Ellis' victory was assured; but McRae received an unexpectedly large vote,⁶⁵ being mainly supported by the disorganized Americans. The suddenly developed strength of the independent ticket warned the Democratic leaders that the tendency of the people was toward local rather than national issues, and that their party stood upon a precarious footing when an independent candidate could command such a vote.

The victory of Stephen A. Douglas over Abraham Lincoln in their notable campaign for the Illinois senatorship in 1858 was an exception to the almost unbroken series of Republican victories at the North in the fall elections. Republican successes served as opportunities for the southern Democracy to appeal to the southern oppositionists for a united stand against their common enemy. This appeal was effectual in a number of lower southern states at this date, resulting in a practical consolidation of parties. In North Carolina, however, the opposition felt that the Democracy had had its opportunity to compose the country and had failed.⁶⁶ Democratic victory in the national and state elections in 1860 promised to be at a greater cost in the state than in 1856. Whether it could be purchased at all seemed to hang on circumstances not yet developed. The Whigs were about to reorganize, and Holden's followers were not yet appeased.

Although Governor Ellis found it necessary, in his inaugural address, January 1, 1859, to use pacific language in his discussion of the threatened disruption of the Union, yet his attitude showed his inflexible determination to preserve intact the constitutional rights of the state as they were interpreted by the aggressive southern Democracy. He said: "We are not prepared for the acknowledgment

⁶⁴ McRae's Address to the People of North Carolina. *Raleigh Register*, May 19, 1858.

⁶⁵ Ellis received 52,000 votes; McRae, 40,000.

⁶⁶ *Raleigh Register*, Nov. 10, 1858.

that we cannot enjoy all our constitutional rights in the Union. Should that day unfortunately come, but little doubt need be entertained that our people will act as best comports with their interests and honor and with the sacred memories of the past, to whatever the result may lead."⁶⁷ Prevailing public sentiment would not have sanctioned a stronger expression than this on the relation of the state to the Union. It was understood that unless some means were found to heal the strife among the Democratic leaders there would be grave danger of party defeat in the approaching congressional election. The dissensions, begun by Holden's defeat at Charlotte, had been increased by the second defeat of that editor for the United States senatorship. The General Assembly had chosen T. L. Clingman for the short term, over Holden, while the long term was given to ex-Governor Bragg, who had foregone a second term as governor. This treatment of Holden, whose claims were supported by the really Democratic portion of the party,⁶⁸ very nearly produced an open break in the ranks.

The visit of President Buchanan in June and his address delivered at the commencement exercises of the State University drew together Holden and the Democratic leaders of the ruling faction, all of whom were members of the university board of trustees. A truce seems to have been patched up, and Holden continued in active support of the Democracy. All visible signs of factional strife disappeared for the time. The theme of the President in his address was "The Constitutional Union,"⁶⁹ a subject grateful to the ears of the state Democracy provided the "Constitution" received the more specific emphasis. Buchanan dealt with the subject diplomatically, and his sentiments were heartily received by the large crowds in attendance and reëchoed by the press throughout the state. Numerous letters endorsing his views appeared in many of the

⁶⁷ Inaugural Address, Raleigh Register, Jan. 12, 1859.

⁶⁸ Raleigh Register, Dec. 1, 1858.

⁶⁹ President Buchanan's address is published in the Standard, Jan. 15, 1859.

state papers. The chief importance of the presidential visit, however, was the accomplishment of the result for which it was evidently designed by the Democratic board, *i. e.*, the closing, at least temporarily, of the factional fight in the state Democracy.

The bickerings of the Democrats among themselves were hushed none too soon for party safety. Early in the year the Know Nothing members of the General Assembly met in a caucus, agreed to abandon Know Nothingism, substituted Whig as the party name,⁷⁰ and determined upon a united fight against the Democrats in both state and national elections in 1860. The first attention of the rehabilitated party was given to the congressional elections in August. The result was an equal division of the eight congressional districts between the two parties. Besides electing four Representatives, the new Whig party cast a large vote in the four Democratic districts.⁷¹

The condition essential to the growth in North Carolina of this new Whig party, with principles of the old one, was the absence of slavery agitation in national politics. No rival party could hope for success while it was necessary to defend the principles of its Democratic opponent. Hence, John Brown's fanatical attempt at Harper's Ferry, in October, to raise the slaves in insurrection, suddenly arrested the party's development.

Brown's capture and swift execution brought out many expressions of sympathy in the North, especially in abolition centers. The South received such expressions of sympathy as northern endorsement of an attempt to subvert her institutions, and the smouldering embers of sectional bitterness were again blown into a vivid flame. Although in North Carolina the Whigs were calmer in their criticism of the incident than were the Democrats, yet the Whig party organ declared that the South would now never submit to the election of Seward or of any sectional Republican.⁷² This was

⁷⁰ Know Nothing Caucus Proceedings, *Standard*, August 24, 1859.

⁷¹ Election Returns, official, *Standard*, August 24, 1859.

⁷² *Raleigh Register*, Nov. 19, 1859.

radical ground for the Whigs, more radical than events proved the party willing to hold. Yet it is undoubtedly true that such a feeling of danger to slavery was almost universal in the South, and caused an absolute dread of a Republican president.

Since the General Assembly met only in the even years, no official expression of North Carolina's sentiment as to the Harper's Ferry incident could be had except through the governor and his council. Governor Ellis, therefore, called together his council on the seventh of December, and passed a series of resolutions in support of Governor Wise of Virginia in his efforts toward quick justice for the offenders. The resolutions declared: "If we cannot hold our slave property, and at the same time enjoy repose and tranquility in the Union, we will be constrained in justice to ourselves and our posterity to establish new forms."⁷³ The council advised the governor to encourage the organization of volunteer companies and to apply to the President for arms. The governor had already adopted this as his policy. Four months before he had applied to Secretary of War Floyd to replenish the arsenal at Fayetteville with modern arms and the request had been complied with a few months later.⁷⁴ Even from conservative quarters came the recommendation to prepare for war; to build powder factories and foundries for cannon; to renovate the military system of the state by requiring each county to have at least one well-equipped volunteer company which should be mustered and drilled often enough for efficiency.⁷⁵ This feeling of a necessity for preparation arose from no desire for war, but from a dread of unpreparedness should hostilities be unavoidable, as was undoubtedly feared.

Slaves were always allowed a fair measure of personal freedom in North Carolina. Even on the larger plantations the master usually knew each slave personally, and

⁷³ Resolutions of the Council of State, published in all state papers in December, 1859.

⁷⁴ Ellis, MS. Letter-book, 76.

⁷⁵ Raleigh Register, Nov. 30, 1859.

was the court of appeals in case of wrongs from overseers. Religious and social gatherings of slaves, though under certain disciplinary restraint, were governed by no hard and fast rules, and the pass system for negroes at night was liberal in its operation.⁷⁶ When the new agitation arose after the John Brown raid the state press began to urge masters to curtail the large liberty enjoyed by their slaves.⁷⁷ A second cause for this new attitude was a book called "The Impending Crisis of the South," published in New York in 1857 by Hinton Rowan Helper, a native of Rowan County, North Carolina. This book was in the main a compilation of statistics intended to prove that slavery was an economic curse to the South. In addition it contained sentiments usually expected only from abolition centers at the North. As a non-slave-holder and hater of the slave labor system the author injected no little class venom into his pages.

Helper's book attracted no special attention until 1858, when Horace Greeley of the New York *Tribune* began a movement to procure its broad circulation in both the free and slave states. For this purpose he secured its endorsement by sixty-eight Republican members of Congress. Popular feeling now became very strong in North Carolina against abolition propagandism. There was already a law upon the statute books against incendiary literature. "The Impending Crisis" was classed under this head and several prosecutions for its distribution were secured.⁷⁸ The council of state advised the governor to require justices of the peace to subject canvassers and peddlers to the strictest scrutiny. These often proved to be distributors of literature highly objectionable to slave-owners.

When Congress met in December both the John Brown raid and Helper's book became of great importance in na-

⁷⁶ Bassett, J. S. Slavery in N. C.

⁷⁷ Standard, Dec. 7, 1859, Raleigh Register, Nov. 30, 1859.

⁷⁸ Fayetteville Observer, January 2, Jan. 9, 1860. The most notable of these trials was that of a Quaker, Daniel Worth, at Greensboro. Worth was a declared abolitionist.

tional politics, the former in the Senate, the latter in the House. The Senate controversy had no more bearing on conditions in North Carolina than upon the South in general, and therefore has no special interest in this connection. But the contest for the speakership in the House of Representatives, in which the Helper book determined the result, was intimately bound up with the state of parties in North Carolina as well as in the Union. The Republicans had a majority over the Democrats alone, but the Americans or original Whigs, twenty-six in number, held the balance of power between the two. The Americans claimed to be the only non-sectional party in existence. Soon after the first ineffectual ballot a Democrat offered a resolution which declared that no member who had endorsed "The Impending Crisis" was fit to be speaker.⁷⁹ This was aimed at John Sherman of Ohio, the Republican candidate, who was among the endorsers. The Democrats hoped for the votes of the Americans to enable them to defeat Sherman and elect a Democrat. Instead of this development John A. Gilmer of North Carolina, American Representative of the Quaker district, moved an amendment to the Democratic resolution which left nothing of it except the word "resolved." In its place he proposed a declaration that it was the duty of all good citizens to oppose every attempt to renew slavery agitation.⁸⁰ Well knowing the detrimental effect upon the life of the new Whig organization in North Carolina as well as the danger to the national situation should the issue be squarely joined on sectional lines, Gilmer refused to yield his strategic position and withdraw his amendment at the instance of the Democrats. There was also a probability of inducing the Democrats, in the event of failure of their own plan, to vote for an American for speaker, and thus at least to secure the position to a conservative rather than to a Republican. This was the tendency, and Mr. Gilmer himself received an increasing

⁷⁹ Congressional Globe, 1st sess., 36th Cong., p. 3.

⁸⁰ Cong. Globe, 1st sess., 36th Cong., p. 18.

number of votes until the thirty-sixth ballot.⁸¹ The failure of the Democrats to concentrate on him was due mainly to personal opposition made by the four Democrats from North Carolina, as the selection of Gilmer as speaker would greatly increase the strength of his party at home. A bitter fight had been made by the state Democracy against his reelection to Congress. He was the most uncompromising of the party's opponents in the state, and in addition had voted in Congress against the admission of Kansas under the Lecompton Constitution. The North Carolina Democratic Representatives were now in a position to retaliate. Warren Winslow of the third district was chairman of the congressional committee of five appointed by a Democratic caucus to manage affairs for the party until the House should be organized. In this position of power and influence Winslow, an intense southern rights advocate and withal a shrewd politician, set himself in opposition to Gilmer's candidacy for the speakership and refused him Democratic support. Gilmer did not withdraw, however, and his party refused to support a Democrat, whereupon a second North Carolina Whig, W. N. H. Smith, was fixed upon. Smith, less aggressive in state politics and more amenable to Democratic influence than Gilmer, received the support of Winslow and the Democratic party. On the thirty-ninth ballot 112 votes were cast for Smith to 106 for Sherman, bringing the former within three votes of election.⁸² To prevent the election of a southern man Sherman now withdrew, and William Pennington, a moderate Republican who had not endorsed Helper's book, was substituted. Pennington received the votes of the northern Americans in addition to the Republicans and was elected on the forty-fourth ballot over McClernand, Democrat, who could not command the votes of the southern Americans. These had gone back to Gilmer, who received sixteen votes on the last ballot.

⁸¹ Cong. Globe, 1st sess., 36th Cong., p. 219.

⁸² *Ibid.*, p. 611.

Organization of the House was thus effected on the last of February, 1860, two months after the meeting of Congress. The long drawn out contest was attended by an intensification of bitterness between the North and South scarcely before paralleled. The strain was increased by the insistence of the South in the Senate upon an investigation of the Harper's Ferry affair. Many southern Senators believed the responsibility for John Brown's action to rest with prominent men of the North or with abolition societies encouraged by them. The criminations and recriminations in the halls of Congress found an echo in the growing excitement and embitterment among the people.

Though quietude in the field of national politics had seemed the only condition under which the Whig party in North Carolina could develop, yet an issue had arisen in the local field which seemed to assure it a less treacherous foundation. In October, 1859, a society was organized at Raleigh known as The Workingmen's Association. This organization, fully equipped with officers and machinery, immediately showed its intention of organizing all mechanics and workingmen throughout the state. Its object, as set forth in published resolutions,⁸³ was a reform of the state's laws for raising its revenue. These laws, the workingmen averred, were not framed in accordance with the principles of justice and equality; they discriminated against the non-slave-holder and operated most heavily upon those who were least able to bear the burdens of the state. The third resolution read: "That it becomes the mechanics and workingmen of North Carolina, while respecting the rights and interests of others, to look also to their own rights and interests, and to insist upon that political equality and that participation in public affairs to which they as free men are entitled." Apparently the political motive was not to lag behind the economic motive. An address to the people of the state, signed by the society,⁸⁴ appeared December 14,

⁸³ Resolutions of the Workingmen's Association, *Standard*, Oct. 26, 1859.

⁸⁴ *Standard*, Dec. 14, 1859.

in which the economic motive was stressed. The workingmen's first demand was an equalization of taxation so that slave property might be compelled to pay its equal portion of the public expense.

The North Carolina constitution, as remodeled in 1835, provided that slaves between the ages of twelve and fifty years should be subject only to a poll tax equal to that paid by white men, and those under twelve and over fifty should be exempt from taxation altogether. The Workingmen's Society put forth statistics to show that 187,842 slaves, worth in the market \$112,568,800, went entirely untaxed, while those subject to taxation as between the age limits—159,925 in number and valued at \$139,000,000—paid into the state treasury only \$75,462, or .50 each, the amount of the poll tax. \$31,000,000 of money loaned would pay, under the law, \$76,000 in taxes, or more than was paid by owners of slave property valued at \$250,000,000. Thus the discrimination in favor of slave property was in a seven-fold ratio. \$1,000 worth of land paid a tax of \$1.50. A negro worth \$1,000 or even \$1,500 yielded only .50 to the state treasury, while \$1,000 invested in manufactures paid \$10. The statistics offered were trustworthy, having been made up from the census and the comptroller's and treasurer's reports.

For the correction of these inequalities the Workingmen's Association purposed to secure a constitutional amendment whereby slaves could be taxed *ad valorem*. To create sentiment for the measure and to distribute facts local associations were to be organized in each county. The movement awakened the strongest opposition from the slaveholders. If successful it would enormously increase their taxes. Moreover, it promised to create an agitation over slavery which would array class against class and west against east at a time when slavery needed all the protection possible on account of the threatening aspect of national affairs.

The real danger to the slave-holder lay in the evident tendency of the non-slave-holding west to unite with the non-slave-holding classes of the east, in which event the slave-holders would be in a hopeless minority.⁸⁶ Though "ad valorem" commanded the support of a few influential slave-holders,⁸⁶ the fight was essentially one between slave-holders and non-slave-holders, between slave labor and free labor, both for economic and political supremacy. Could the national crisis have been delayed until the contest had reached its climax an interesting chapter would have been made in North Carolina history. The national crisis, however, now close at hand, soon served as a welding hammer upon the opposing forces. When the curtain was again lifted the problem had disappeared—slavery no longer existed.

The Whig state convention met in February, 1860, to nominate a candidate for governor, and promptly made *ad valorem* taxation a plank in its platform.⁸⁷ The Workingmen's Association ceased its efforts to organize county associations and entrusted its cause to the Whig party. John Pool, an intense partisan and a strong debater, became the candidate.⁸⁸

⁸⁶ In North Carolina at this date there were nearly three hundred thousand slaves, and the number of slave-holders out of the six hundred thousand white population was between thirty and forty thousand. See estimate of Standard, Dec. 29, 1859. This estimate was based on the census of 1850.

⁸⁷ Moses A. Bledsoe, a Democrat and the owner of about 40 slaves, had first offered the *ad valorem* bill in the house of commons in 1856, but it met with no favor from his party and was never prominent as an issue until 1859-1860. Mr. Bledsoe continued its support when adopted by the Workingmen and later by the Whig party, and was ruled out of the Democratic ranks. He is still living in Raleigh at a green old age and recalls all the details of this controversy with remarkable clearness. Realizing that *ad valorem* taxation would touch his own pocket in common with all other slave-holders, he supported the measure because he felt it was a just one and would in the end strengthen the state.

⁸⁸ Whig Convention Proceedings, Raleigh Register, Feb. 29, 1860.

It is interesting to note that the tendency in all North Carolina state elections was for the Whigs, who were strongest in the west, to take their candidate from the east for the purpose of strengthening their party in that section. In like manner the Democrats, who

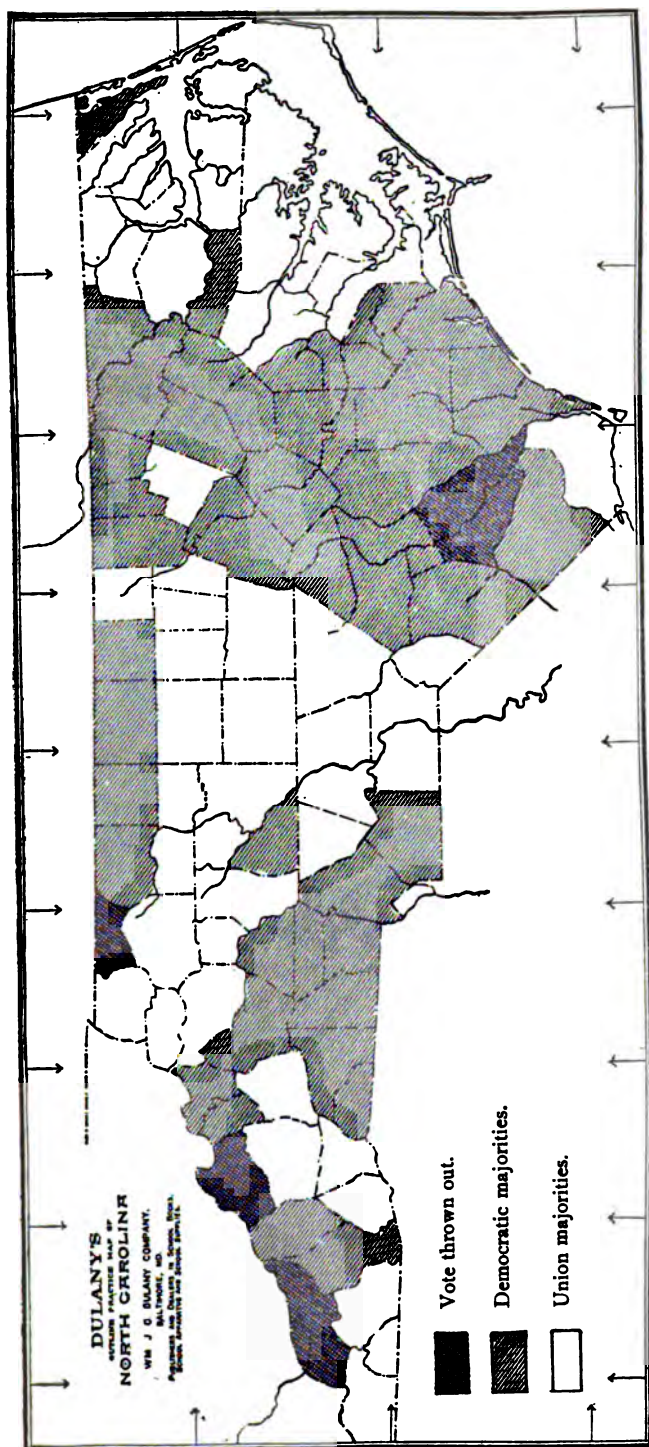
The Democrats held their convention in March, renominated Governor Ellis, and declared against any attempt to disturb the existing method of raising the revenue as "premature, impolitic, dangerous, and unjust."⁸⁹ As evidenced by a strong state rights plank, the party hoped to turn public attention from the state issue and fix it upon the dangers to be apprehended by the South from northern encroachments upon slavery. Their defeat in August, they claimed, would aid in their defeat in the November presidential election and mean a weakening of the southern attitude. The Whig state convention had ridiculed the idea of secession in the event of Democratic defeat in November. The Democrats now declared such a course a strong possibility, and urged unity.

The two candidates arranged a joint debate and began a vigorous campaign. Governor Ellis, as much as possible, kept the discussion in the field of national politics, while his opponent insisted upon directing attention to the taxation of slaves. The people refused to be alarmed as to the national situation, whereupon Governor Ellis finally turned to state issues and adroitly threw his opponent upon the defensive by calling attention to the fact that, while the Whig platform demanded an equalization of taxation on all forms of property, it made no provision for exemption. He assumed the object was to tax ovens, pots, pans, tin cups, chickens, and eggs as well as slaves. Despite the efforts of his opponent, the campaign assumed the character of a pot, pan, and tin cup issue. This was no small factor in the result; men everywhere are opposed to taxation in detail, and the mere discussion of such a proposition alarms a certain class of voters.

The serious Democratic argument against *ad valorem* taxation of slaves was embraced in the claim of the eastern slave-holder that he should not be taxed ten dollars on the

were all powerful in the middle east usually, chose a candidate from the west. Thus in this campaign Pool was from the east and Ellis from the west.

⁸⁹ Democratic Platform. Standard, March 10, 1860.



PRESIDENTIAL ELECTION, 1860.

Breckenridge, Dem., 48,539. Bell, Union, 44,990. Douglas, 2,701.

thousand dollar value of each of the slaves with which he cultivated his fields, while the western farmer, using free labor, went untaxed.⁹⁰ Yet the western farmer fed his laborer and paid him wages, while the eastern farmer was only at the expense of the keep of the slave. With the tax added, the cost of slave labor was thus far from equal to that of free labor unless the original cost-price of the slave was considered, and this was only fair. However, could slave property have been brought under its fair burden of taxation, the effect would have been to remove the taint of discrimination and to give every citizen, whether slaveholder or not, an interest in the protection of the institution. North Carolina stood alone among the southern states in not taxing slaves as property.

The Democracy, occupying the position of defender of southern rights and led by the aggressive governor, was in the end able to overmatch the increasing strength of the Whigs. Ellis was reëlected, but by a reduced majority of over ten thousand votes at the time when the largest vote ever polled in the state was brought out.⁹¹ In the victory was read the decision of the majority against *ad valorem* taxation and its incident slavery agitation until quieter times on that subject in national politics.

Closer examination of the Democratic attitude to national politics preceding the August election discloses the chief factor in the party's success. The convention in March reaffirmed the Cincinnati platform of 1856, passed strong resolutions in support of the Dred Scott decision, and, in reference to John Brown's raid, declared that the Union could not longer endure under further encroachments upon slavery.⁹² After nomination Governor Ellis came before the convention and delivered a speech in which he took a prophetic view of the national situation. In reference to the approaching national election he held that the existence

⁹⁰ Cf. Greensboro Patriot, April 6, 1860.

⁹¹ Election Returns, official. Standard, Aug. 29, 1860.

⁹² Democratic Convention Proceedings. Standard, March 10.

of slavery, not in the territories but in the South itself, was at stake. "The abolition of slavery here at home," he said, "is the design of our opponents. This is the band that cements all the anti-slavery elements in one solid column against us."⁹⁸ Although the people showed no disposition to take so alarming a view of the situation, nevertheless they preferred a governor who was on the defensive. Although earnestly desiring a respite from sectional strife, they were yet unwilling to lower their defenses while the enemy threatened.

The main features of the presidential contest of 1860 were as follows: The convention of the national Democratic party met at Charleston, April 23. It was a foregone conclusion that it would be difficult to secure harmony between the northern and southern factions of the party as to the powers and duties of Congress in regard to territorial slavery. Douglas and the northern Democracy would stand or fall with popular sovereignty. In the view of the southern Democracy the Dred Scott decision covered the whole ground. Two reports were brought in by the committee on platform. The majority report, securing in the committee the adherence of only three states more than the minority report, embodied the demands of the South on the subject of slavery. It declared that the federal government was bound to protect slaves, as legally existing property, in every territory until the same became a state. The minority report, presented by a majority of northern delegates on the committee, proposed to abide by the action of the Supreme Court in all slavery cases coming up from the territories. The northern delegates declared that if crippled by an obligation of congressional protection and a distinct repudiation of popular sovereignty they would be unable to maintain themselves in the campaign at home. On the other hand, the delegates of the cotton states declared that if the declaration of the convention in regard to slavery were not une-

⁹⁸ Pamphlets, 1860-1861, pp. 4-20. Gov. Ellis' speech before the Democratic Convention at Raleigh.

quivocally for protection they would retire from the convention. The true proportional voting strength of the South being over-represented in the committee, when the reports were finally voted on the northern delegates, with the aid of some border-state conservatives, secured the adoption of the minority report. Whereupon the delegates of all the cotton states, led by Wm. L. Yancey of Alabama, withdrew from the convention. After all prospect of a nomination had disappeared the remaining delegates adjourned to meet again at Baltimore, June 18. Another bolt by the southern delegates occurred at Baltimore. Douglas was nominated by the remaining or northern section of the party, while the new bolters retired to Richmond, where they met the original bolters from Charleston and nominated John C. Breckenridge.

Meanwhile, on May 18, the Republican convention met at Chicago and nominated Abraham Lincoln upon a platform which declared that slavery did not exist in the territories; that Congress had no power to legalize it there, and that the union of the states must and should be preserved. The Whig party, now called the Union party, met at Baltimore, May 9, and nominated John Bell of Tennessee on a platform containing nothing besides the Constitution.

North Carolina held the chairmanship of the platform committee in the Charleston convention,⁹⁴ and her delegates, though seeking to compose the differences between the northern and lower southern factions of the party, voted for the majority report. When the bolt occurred, however, the North Carolina delegation remained in the convention and continued to ballot for a nominee until adjournment.⁹⁵ When the second bolt occurred at Baltimore her delegates,

⁹⁴ The chairman was W. W. Avery, a member of the radical faction in North Carolina politics.

⁹⁵ W. W. Holden, delegate for the state at large, wrote from Charleston: "For our part, we have no hesitancy in saying that we will not go with South Carolina or Wm. L. Yancey and his followers in their attempt to dissolve the Union. Nor do we by any means despair of the Republic. We still have confidence in the National Democratic party." *Raleigh Register*, May 9, 1860.

with one exception,⁹⁶ came to Richmond and cast their votes for Breckenridge.

After the series of conventions of the Democratic party had finally ended in its definite split into sectional factions with two candidates in the field, the chances for party success seemed small. Yet, hoping against hope, the party in North Carolina prepared for the contest of ballots. Mr. Holden proposed that Breckenridge electors be supported on condition that they should vote for the strongest man—Breckenridge or Douglas—against Lincoln, and that if the state's vote would elect neither, then the electors should vote as they pleased.⁹⁷ The proposition met no united opposition, and though the matter was not definitely determined before the date of the election a united effort was made, on this understanding, to suppress the Douglas electoral ticket.

Douglas Democrats were numerous in the summer,⁹⁸ but were met with the argument that two electoral tickets would not benefit their candidate and might throw the state to Bell and the Whigs. The electors, however, were not taken down, though the vigor with which the Democratic press set to work to weed out Douglas voters was not without the reward of success, even though it is difficult to determine whether a majority of these entered the Union or the Democratic party.

Naturally, Lincoln was not a factor in the election in North Carolina, except in so far as the fear of his election influenced the decision of those who were undecided whether to support Breckenridge or Bell. The decision was to be between these two, and the determining factor was the voter's judgment as to which would the better conserve southern interests by defeating Lincoln. A vote cast for Bell would not only be cast in the interest of conservatism and quiet in national parties but would go further to strengthen and reinvigorate the rapidly growing state Whig

⁹⁶ Robert P. Dick remained at Baltimore until adjournment, though he did not assist in Douglas' nomination.

⁹⁷ *Standard*, Aug. 15, 1860.

⁹⁸ *Standard*, Aug. 22, 1860.

party. On the other hand, since it was generally understood that Breckenridge's chances of election, though small, were better than those of Bell,⁹⁹ a vote cast for the latter would weaken the chances of a victory over the Republicans and so bring the country to the verge of dissolution, or even possibly effect dissolution. Undoubtedly the fear of radical action by the lower South in the event of Democratic defeat led many North Carolinians to support Breckenridge in the hope of removing the cause for such action.¹⁰⁰

The state Democracy, however, did not go so far as to make dissolution of the Union contingent upon Breckenridge's defeat. Such a proposition, advanced early in October by a radical newspaper,¹⁰¹ was emphasized by only a few Democratic speakers and apparently only for the purpose of winning votes through the fears it would arouse. The answer to the suggestion was an immense mass-meeting held at Salisbury in the middle of October. Many Democrats as well as the Whigs attended the two days' session.¹⁰² The leading unionists made speeches in regular program. Graham, Badger, W. N. H. Smith, and Vance were eagerly listened to by great crowds assembled around outdoor platforms. Vance spoke for two hours during the evening of the first day amid a cold drizzling rain, and though his audience contained hundreds of ladies no one left the assemblage until he had finished.¹⁰³ "But one sentiment prevailed," said the reporter, "and that was, we will fight for the Constitution, the Union, and the laws, *within* the Union and the laws. We will not be influenced by seceders in the South or Black Republicans in the North, and we will never give up our institutions until stern necessity compels us to believe that they, being no longer adequate to our protection, we must resort to that right of revolution which is

⁹⁹ Standard, Sept. 11, 1860.

¹⁰⁰ Cf. Fayetteville Observer, editorial, Nov. 13, 1860.

¹⁰¹ Wilmington Daily Journal.

¹⁰² For an account of this meeting see Raleigh Register, Oct. 17, 1860.

¹⁰³ Raleigh Register, Oct. 17, 1860.

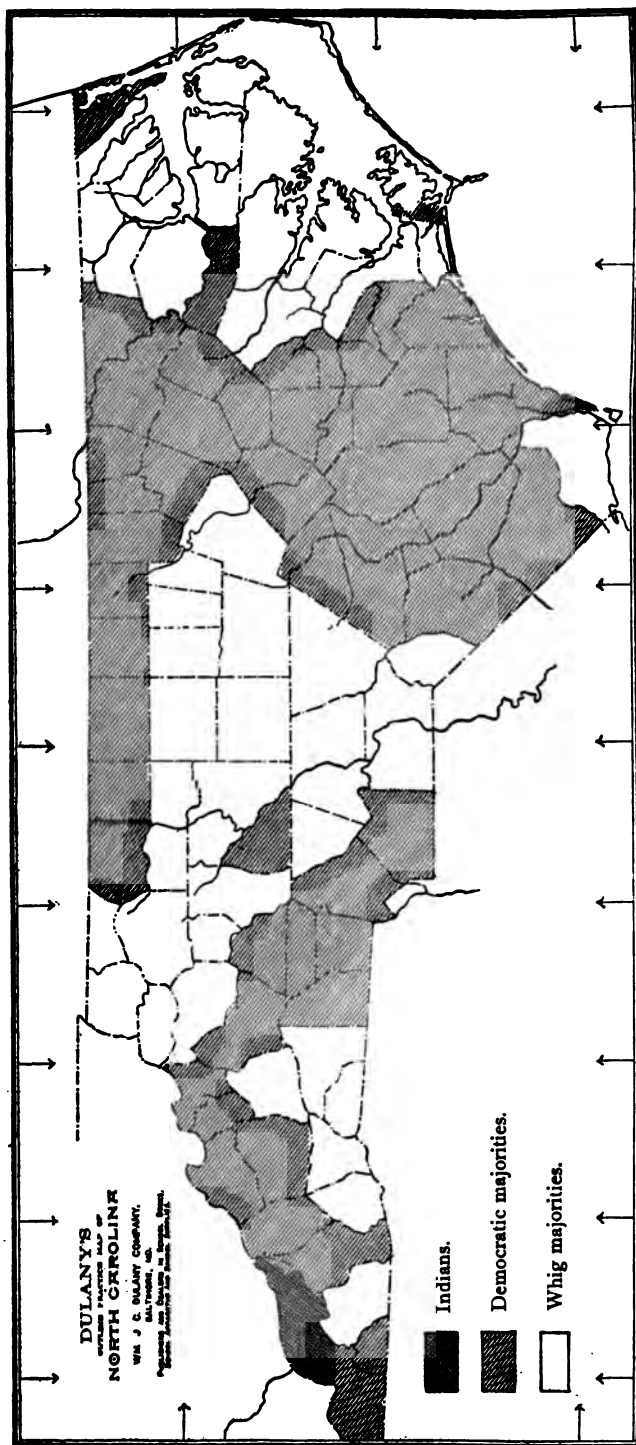
inherent in every people."¹⁰⁴ This program, announced in the Salisbury meeting, was the unionists' defiance, given in advance to those of the Democratic party who might entertain the idea that the state would follow the Hotspurs of the cotton states in an attempt to break up the Union.

The popular vote in November was: Douglas, 2401; Breckenridge, 48,539; Bell, 44,990. Thus Breckenridge received an absolute majority of 848 votes. While the votes cast for Bell and Douglas may be classed distinctly as Union votes, those cast for Breckenridge may also to a very large extent be so considered. The vote plotted by counties shows strongly a tendency of reversion to the old party divisions. The plot is almost exactly similar in detail to the gubernatorial vote in August, and both bear a close resemblance to Whig and Democratic divisions previous to 1850. The group of counties clustering about Albemarle and Pamlico Sounds and covering the eastern end of the state from north to south gave Whig majorities as in former tacit compacts with the non-slave-holding west. The west gave Bell majorities except where the alignment had now become permanently broken through special influences. The middle east, the east of the slave-holding Democracy, was almost solidly arrayed for Breckenridge. Besides controlling this section across the broadest portion of the state, the Democrats now held fast the tier of tobacco-producing counties along the Virginia border and the group of cotton-producing counties of the west which bordered on South Carolina. Both these groups were western according to the ancient division, and had been wrested from the Whigs only since 1850.

North Carolinians of all parties were together under a common defeat. Yet a calm acceptance of the result and acquiescence in the national decision seemed widespread, as evinced in the press.¹⁰⁵ The situation after the election possessed no feature unusual to a presidential contest be-

¹⁰⁴ Comptroller's Report to the Governor, Ellis, Letter-book, p. 311.

¹⁰⁵ *Standard*, Nov. 7, 1860, *Raleigh Register*, Nov. 14, 1860.



GUBERNATORIAL ELECTION, 1860.
 Ellis, Democrat, 59,443. Pool, Whig, 53,219.

yond a strained expectancy and a dread of the effects of the result in less conservative quarters of the Union. The conviction undoubtedly prevailed that the necessity for preserving the Union overbalanced the evils to be apprehended from the powers of a president elected on sectional lines.¹⁰⁶ They must defend their institutions from encroachments; but, at the same time, they felt they must not injure a cause capable of the best defences, and admitted to be peril, by taking counsel of passion rather than of wisdom. They preferred to await the action of the new president, and to make resistance to acts only if these should demand it.

¹⁰⁶ Cf. Letter of Wm. A. Graham, *Standard*, Nov. 14, 1860.

CHAPTER V.

SECESSION.

The theory of the Constitution of the United States as a federal compact between sovereign states has, at different times and under stress of different circumstances, held sway over the minds of large masses of the American people. The first noteworthy expression of this theory was in the Virginia and Kentucky Resolutions of 1798 and 1799, passed as remonstrances against the Alien and Sedition Acts. Its second and more serious expression was the Hartford Convention held by several of the New England states in 1814 for the purpose of redressing their grievances arising out of the war of 1812. The southern states learned early the necessity of a strict construction of the Constitution, both for economic and institutional protection. Strict construction naturally allied itself with the compact theory, from which secession follows as a constitutional right. The state rights doctrine, passing through several stages of development, appeared in its most forceful and consistent form in 1861.

Though the right of secession was exercised in 1861 by most of the southern states for the protection of slavery, the interests of the border-states and of the cotton states were neither identical with respect to slavery nor equally strong in demanding secession. With regard to the slave-holding interest there were divergencies in the border-states themselves. Virginia, North Carolina, Kentucky, and Tennessee each, though slave-holding in its larger and more fertile sections, contained large mountainous areas in which slave labor as a system had never taken root and probably never would have taken root. This mountain country, with its homogeneous population, all lay contig-

uous, making up the western portions of Virginia and North Carolina and the eastern portions of Kentucky and Tennessee. This section, only indirectly influenced by slavery, never developed the particularistic method of constitutional interpretation common to the slave-holding sections of these four states and to the lower South.

In North Carolina the western non-slave-holding section was the basis of the Whig party. As already pointed out, the party gathered to its support not only adherents in the east who were not dependent upon the slave interest but others also from the ranks of the slave-holders sufficient to make it the dominant party in the state for the fifteen years between 1835 and 1850 when slavery agitation was in abeyance. Driven from power by the agitation over the compromise measures of 1850, the party disappeared in name with its national prototype. In the poorly fitting dress of Know Nothingism the Whig spirit lived on through the decade, and was ready in 1860 to oppose itself to the particularistic tendencies of the Democratic party.

By the eighth of November, 1860, it was definitely known throughout the country that Mr. Lincoln had been elected president. As evinced by the press¹ a spirit of acceptance of this result and acquiescence in it seemed widespread in North Carolina. The appellation "submissionist," applied in some Democratic quarters,² had no power of arousing resentment in any large mass of the people. William W. Holden hastened to announce a policy for the Democratic party, though there was much evidence that Governor Ellis' faction would not long tolerate his dictation.³ "Let us watch and wait," he said; "North Carolina will never permit Mr. Lincoln or his party to touch the institution of slavery. Her people are a unit on this point. They may not advise or approve secession, but they will not submit to

¹ Raleigh Register, Nov. 14, 1860, Greensboro Patriot, Nov. 15, 1860, Carolina Watchman, Nov. 12, 1860, Fayetteville Observer, Nov. 12, 1860, Standard, Nov. 14, 1860.

² Wilmington Daily Journal, Nov. 12, 1860.

³ Ibid., Nov. 15, 1860, Nov. 16, 1860.

indignities or encroachments.”⁴ Business men were advised to stand firm and be prepared to resist the threatened panic. Economy was insisted upon. The people were especially warned against a panic in the slave-market,⁵ as this kind of property was declared to be in no danger whatever.

The idea of secession had become familiar in North Carolina during the agitations over slavery in the past decade, though it was still held by the majority as an evil affecting their southern neighbors rather than themselves.⁶ But now since an accurate observation of the politics of South Carolina had, after the election, brought secession as an issue closer, the two theories as to the nature of the United States government were drawn out in sharper contrast than had ever before occurred. William A. Graham and George E. Badger, the most prominent representatives of the old Whig sentiment of the state, had always held to the national theory of the Constitution, and in consequence to revolution as the only means for redress of grievances. Mr. Graham now said: “A state cannot secede, and the necessity for revolution does not yet exist. The revolution (for by whatever name it be called, this is its effect) should have been made earlier, or must be postponed later. . . . Who can prepare a declaration of independence, appealing to a candid world for its approbation and sympathy, upon the ground that we have been outvoted in an election in which we took the chances of success, and a candidate has been elected who, however obnoxious, we have not deemed unworthy to compete with us for our votes.”⁷ Mr. Graham’s position was that of a national rather than a sectional statesman, and though his views were out of harmony with the tendencies of the South as a whole, they commanded the support of a very large portion of the people of his own state. The old Whig press emphasized the same view and

⁴ *Standard*, Nov. 10, 1860.

⁵ *Ibid.*, Nov. 10, 1860. *Fayetteville Observer*, Dec. 3, 1860.

⁶ *Standard*, Nov. 14, 1860. Letter from Mr. Graham.

⁷ *Standard*, Nov. 15, 1860. Letter from Mr. Graham.

invited argument in refutation.⁸ The Democrats seemed to be awaiting the meeting of the legislature and some authoritative expression from Governor Ellis before taking a decided course.

The North Carolina General Assembly, elected in August, met in regular session on November 19, 1860. The senate was composed of thirty-two Democrats and eighteen Whigs, a gain by the Whigs of one over their number in the last senate. In the house of commons were sixty-five Democrats and fifty-five Whigs,⁹ a gain of eight for the latter. Organization was effected by the election of eastern Democrats as president of the senate and speaker of the house respectively. Henry T. Clarke, in assuming his office as president of the senate, made a conservative address in which he pointed out the seriousness of the political situation and the necessity of caution and honesty in interpreting the will of the people.¹⁰ The legislators seemed fully conscious of the importance of the session. The next day Governor Ellis sent in his message.¹¹ He made four distinct recommendations upon the subject of federal relations: (1) A conference of the southern states; (2) a convention of the people; (3) the arming and equipping of the state; (4) resistance to federal coercion. The plan of the governor as set forth in the document was that the Assembly should dispatch delegates at once to a southern conference and issue at the same time a call for a state convention to meet

⁸ "A state cannot secede. It may be asked: What is a state to do in the event of Congress passing laws oppressive and intolerable to her citizens? We answer at once that she must resort to revolution. The right of revolution is one inherent in every people, in every form of government; but at the same time it is a right to which no people will resort unless the grievances to be redressed are more burdensome and intolerable than would be those which would flow from a revolution." Greensboro Patriot, Nov. 15, 1860.

⁹ The popular branch of the North Carolina General Assembly was called the house of commons until the Constitutional Convention of 1868.

¹⁰ Report of H. T. Clarke's Speech to the Senate, Raleigh Register, Nov. 21, 1860.

¹¹ A full report of the governor's message may be found in all state papers of the day. See Raleigh Register, Nov. 28, 1860.

after the conference had done its work. The convention was designed to pass upon the work of the conference. The message had a ring of activity and radicalism that secured for its recommendations only tardy support. Two factions at once clearly defined themselves among the Democratic members. One faction, known as the conservatives, opposed the proposition for a convention as premature and as unwarranted by existing conditions; they were willing, however, that delegates should be sent to a southern conference. The other faction, known as the radicals, supported the whole of the governor's plan. The Whigs opposed both the conference and the convention. Resolutions and counter-resolutions were offered as to the attitude the state should take, and a test vote was had in the lower house on the nature of the federal government. D. D. Ferebee, an eastern Whig, offered a resolution embodying the national theory and declaring that there could be no such thing as secession without revolution.¹² Only the Whigs voted for it, the conservatives casting their votes with the radicals; this resulted in fifty-four to fifty-eight against the motion to print the resolution and refer it to the federal relations committee. The state compact theory, entailing the right of a state to resume her sovereignty at will, was immediately offered by a radical Democrat. A western conservative moved an amendment in which the results of the election were deplored, but which affirmed the sense of the Assembly to be that the rights of the people of the state should be observed and enforced in the Union under the

¹² Senate and House Journals, 1860-1861, 47. The resolution declared: "The Constitution of the United States is not a league, confederacy or a compact between the several states in their sovereign capacities, but a government proper founded on the adoption of the people and creating direct relations between itself and individuals; that no state authority has power to dissolve them but by revolution, and that consequently there can be no such thing as secession without revolution; that it is the duty of North Carolina under all circumstances, and at all hazards to protect, maintain and defend in the Union, all her rights under the Constitution; that the election of Lincoln is not a sufficient cause for a dissolution of the Union."

Constitution, at all hazards and regardless of consequences. The resolution with the amendment was accepted by a ye and nay vote of sixty-one to fifty-three,¹³ which accurately registered the numerical strength of the two opposing theories in this branch of the Assembly. The amendment, declaring the absence of sufficient cause for action, secured for the resolution the votes of the conservative Democrats, who, while believing in the right of secession, opposed its exercise.

The temper of the Assembly was undoubtedly pacific, though the situation held possibilities which gave the Whigs much uneasiness.¹⁴ Should national affairs take such a course as to unite the two factions of the state Democracy, the Whigs would be in a clear minority. On December 6 a memorial of radical character was presented from the Southern Rights Association of McDowell County. By design this memorial was from the western portion of the state and was presented by a western Democrat. It was used by the radicals to give color to their claim that the stand for the state rights doctrine was not purely that of eastern slave-holders.¹⁵ The smouldering fires of eastern and western sectionalism were so far from being dead that a new state rights paper tactfully declared in its second issue that it would eschew all sectional consideration and work for the entire state and her common interests.¹⁶

A joint committee on federal relations brought in a majority and a minority report to the two houses, December 12. The majority report advised the call of a state convention and the dispatch of delegates to the other southern

¹³ Senate and House Journals, 1860-1861, 48.

¹⁴ Jonathan Worth, a Whig member from the Quaker district, wrote to a constituent early in December that the majority of the Democrats were for the preservation of the Union, but that they would sooner or later go with the radical leaders; that to his mind the Assembly was, beyond doubt, the most unpatriotic body that had assembled in North Carolina since the Revolution. This letter, written to J. J. Jackson, is in the possession of Mrs. Moffit, Raleigh, N. C.

¹⁵ State Journal, Dec. 12, 1860.

¹⁶ Ibid., Dec. 5, 1860.

states with a view to securing united action.¹⁷ The minority opposed both these proposals on the ground of insufficient cause, and recommended moderation.¹⁸ The Whigs and conservative Democrats acted together in support of the minority. In lieu of the adoption of either report, discussion and amendment continued until adjournment for the Christmas recess, December 22, two days after the secession of South Carolina. Whether the convention would be called seemed to be in doubt. A majority of the legislators showed no disposition to run ahead of the wishes of the people.

The division which defined itself among the Democrats in the General Assembly on the reception of the governor's message had rapidly taken form throughout the state. Mr. Holden, who had formerly divided honors with the governor in the leadership of the party, now set himself in the forefront of the conservatives, and with his accustomed editorial energy and ability began the fight in the columns of the *Standard* against state rights as interpreted by Governor Ellis and the radicals. Only one other prominent Democratic leader, ex-Senator Bedford Brown, now a member of the General Assembly, stood with Mr. Holden. Nevertheless, the conservative Democrats held the balance of power between the Whigs and the radicals, and Mr. Holden received the support of both Whigs and conservatives.

Mr. Holden charged the governor with the purpose of dissolving the Union out of hand at the instance of the William L. Yancey school of southern politicians and in defiance of the will of the people.¹⁹ The radicals replied by reading him out of their party ranks and repudiating the services of his paper, a procedure to which he made no objection and one from which he derived benefit for his claim that his proscription was due to his support of the constitutional Union. Enjoying now a freedom of action

¹⁷ Senate and House Journals, Dec. 12, 1860.

¹⁸ *Ibid.*, Dec. 12, 1860.

¹⁹ *Standard*, Nov. 28, 1860.

the exercise of which had hitherto constantly created dissensions among his former party associates, Mr. Holden attacked the radicals as enemies to the state and nation. His opposition was heavily felt by his opponents. A new state rights party organ was set up whose first months of existence were devoted almost wholly to the defense of the governor and the radicals against the onslaughts of Mr. Holden.²⁰ Many saw in the situation the working out of class intolerance on the part of the radicals. Mr. Holden had never been a slave-holder and was in no way, except politically, identified with the slave-holding régime.²¹

The first distinctively secessionist meeting held in North Carolina was a town meeting held in Wilmington Court House November 19, 1860, the date upon which the General Assembly met in Raleigh. Resolutions passed by it, despairing of the Union, demanded a state convention and advised the reassumption of the state's sovereignty. A corps of militia was unanimously voted and preparation made to arm and equip it.²² A number of eastern and a few western counties,²³ following the example of Wilmington, held similar meetings in the last days of November and in December. The disunion party leaders in these meetings claimed generally that Mr. Breckenridge had been the disunion candidate and that secession was contingent upon his defeat. The conservative Democrats, who, with the

²⁰ Cf. *State Journal*, Nov. 28, 1860, Dec. 5, 1860, Dec. 12, 1860, et seq.

²¹ The Whigs held that the relation of W. W. Holden to the radical Democrats illustrated the proscriptive, intolerant, and aristocratic character of that party; that the editor aspired to an office of distinction in the party and the party manifested its democracy by requesting him to leave it; that the offices and honors in the party which he had done more than any other man, or ten men, to build up and make powerful were not for a mechanic. *Fayetteville Observer*, Dec. 3, 1860. This was in reference to Mr. Holden's humble origin and his ambition for the governorship in 1858 and senatorship immediately afterwards.

²² *Wilmington Daily Journal*, Nov. 20, 1860.

²³ *State Jour. Extra*, Dec. 19, 1860, is given over entirely to reports of these disunion meetings. The four western counties which held meetings of this type thus early were Mecklenburg, Gaston, Lincoln and Rowan, all cotton counties.

Whigs, were beginning to be called constitutional unionists, declared that no such thing was understood; that if Mr. Breckenridge was the disunion candidate, then at least forty thousand voters in the state had been deceived; and further, that if Mr. Breckenridge's uttered views had approached in radicalism the sentiments contained in Governor Ellis' message, then he would have received in North Carolina not even the united support of the present fire-eaters.²⁴ Though the state gave Mr. Breckenridge an absolute majority of her votes, the fact that now a very large section of the Democrats who voted for him were constitutional unionists sufficiently refuted the argument that he had been accepted by the party as the disunion candidate. Since also the Whigs were a unit in their opposition to secession, the radical Democrats, in the last months of 1860, were a small, though a very active, minority. The radical leaders were thoroughly aggressive and acted along lines definitely mapped out. Thomas L. Clingman had announced on the floor of the United States Senate that the South must not wait for overt acts upon the part of the new administration.²⁵ Governor Ellis was the exponent of this view in North Carolina state politics, though he had not found the temper of the legislature to his liking. Yet it was easily discernible that external events would be the allies of the radicals. That South Carolina would secede before the end of the year was generally understood. Her convention had been called to meet on December 17; both her Senators had resigned in November, and her federal district court had ceased its functions. Governor Gist forwarded to Governor Ellis the resolution of his legislature setting aside the twenty-first of December as a day of fasting and prayer, and invited North Carolina to similar action.²⁶ The radicals asserted that secession was only a matter of time and that the present opportunity must not be lost.²⁷

²⁴ *Standard*, Dec. 5, 1860.

²⁵ *Congressional Globe*, 2d sess., 36th Congress, 4.

²⁶ Ellis, MS. Letter-book, 279.

²⁷ *Wilmington Daily Journal*, Dec. 5, 1860.

The unionists were not inactive, though they had a less clearly defined policy than the radicals. A constitutional union meeting was held in Raleigh November 30, and was largely attended by old line Whigs, by Know Nothings, and by conservative Democrats. W. W. Holden presented the resolution deprecating disunion, and Zebulon B. Vance made the chief address. Admitting the right of secession,²⁸ Mr. Vance urged the impossibility of good resulting from it and insisted upon a strong stand within the Union. He believed that the obnoxious personal liberty laws of the northern states would be repealed if southern legislatures enacted retaliatory measures touching their trade with the South.²⁹ County union meetings were held throughout the state during December, all expressing a determination to remain in the Union.

On the fourteenth of December twenty-eight southern Senators and Representatives issued from Washington an address to their constituents in which they expressed the belief that all hope of relief in the Union, through committees, congressional legislation, or constitutional amendment, was extinguished, and declared that the welfare of the southern people required the organization of a southern confederacy, a result to be attained only through separate secession of the states. Two Representatives from North Carolina signed the address,—Burton Craige of the seventh and Thomas Ruffin of the second congressional district. It was understood that Senator Clingman and Representative Winslow were also in accord with the views of the address from Washington.³⁰

Although not likely to wait upon their encouragement, yet it now became important to the lower southern states to ascertain the disposition of their northern neighbors toward

²⁸ Vance was the only Whig of state prominence at this date who admitted secession to be a constitutional means to secure a redress of grievances.

²⁹ Raleigh Register, Dec. 5, 1860, has a full report of Vance's speech.

³⁰ Standard, Dec., 1860.

secession. Accordingly, delegations were sent to the border slave states. North Carolina, on December 18, received two commissioners from Alabama, the object of whose mission, as communicated by Governor Ellis to the General Assembly, was an interchange of opinions on federal relations.³¹ A more important commissioner was Jacob Thompson, sent by Mississippi. Though still a member of President Buchanan's cabinet, Mr. Thompson came to North Carolina with the avowed object of using his influence toward inducing the state to secede,³² a mission for which he was supposed to be better fitted because he was a native and former resident of the state and had many warm personal friends among the leaders. His letter of credence expressed the hope of Mississippi that North Carolina would coöperate with her in the adoption of official measures for the common defence and safety of the South. There were no visible results of the mission; but Secretary Thompson must have gathered sufficient information to convince him that the state would make no move unless her position in the Union became untenable.

When South Carolina seceded, December 20, the excitement attending the first break of the Union was naturally communicated to her northern neighbor. In Wilmington one hundred guns were fired in honor of the event. Wilmington was the chief town of the eastern slave-holders. Its economic organization and geographical situation alike allied it in interests and sympathy with the cotton states. As the largest town and chief cotton port of North Carolina, it was in close touch with Charleston, Savannah, Mobile, and New Orleans and reflected a similar public sentiment. Only in Wilmington was there any noteworthy demonstration of joy at South Carolina's action. The unionists and

³¹ Ellis, Letter-book, 294.

³² Writings and Speeches of the Hon. T. L. Clingman, 526. Clingman states that Secretary Thompson told him in the middle of December that the object of his visit was to induce North Carolina to secede. Cf. Von Holst, *Constitutional History of the United States, 1859-1861*, 367. *State Journal*, Dec. 26, 1860, has a copy of this letter.

conservatives, a large majority at this date, greeted it as a sad event, pregnant with many evils and blasting many fair hopes of greatness and glory in the western world.⁸³ As yet North Carolina stood firmly to the bond she had contracted in 1789. Mr. Holden's often reiterated plea, "Let us prepare for any event, but watch and wait," accurately expressed the will of the conservative Democrats who, believing in the right of secession but looking to it only as a last recourse, firmly held the balance of power between the nationalists⁸⁴ and the radicals.

South Carolina's withdrawal from the Union increased the vigor of the demands on the part of the radicals for a state convention to express the will of the state under the new aspect of affairs. Secession, they argued, was now an accomplished fact, and North Carolina was forced to its approval or disapproval. They hoped for approval. The opponents of the convention urged that it would be the first step toward disunion and that it would afford demagogues an opportunity to excite and inflame unduly the minds of the people.⁸⁵ The radicals, constantly under the necessity of refuting the charge of being designing politicians,⁸⁶ urged that a convention was but the ordinary right of freemen. A number of conservative leaders now came to support the proposition for a convention. W. W. Holden had never directly opposed this feature of the governor's policy. Mr. Vance, Whig Representative in Congress from the mountain district, wrote to a member of the General Assembly January 9, 1861, advising a convention. "I do not regard," he said, "the call of a convention as a disunion movement, but as the conducting steel to the lightning-freighted cloud. Firm, temperate, and decided action

⁸³ Fayetteville Observer, Dec. 24, 1860.

⁸⁴ The term "nationalist" is here used to designate those who held the national theory of the Constitution. In general they were the old line Whigs, though an increasing number of this party came to support secession as the crisis approached, *e. g.*, Z. B. Vance and his followers.

⁸⁵ Raleigh Register, January 2, 1861.

⁸⁶ State Journal, Jan. 2, 1861.

may save the rights of the states and the Union as well. Non-action will precipitate us into disunion. A convention, while demanding terms of the northern people, can also make our voices heard among the southern states whose course is rapidly inoculating the people with dogmas which we cannot approve."³⁷ Meanwhile, the members of the General Assembly reassembled January 7, after two weeks' stay among their constituents. It was immediately apparent that their conservatism had undergone no diminution, but that they had become impressed with the fact that many besides the radicals wished a convention.³⁸

The convention bill,³⁹ authorizing the election of one hundred and twenty delegates on the basis of federal population in the counties, passed both houses January 24. It directed that the voters at the same election should express their wishes for or against the convention. If a majority should vote for a convention, then the governor was directed to assemble the delegates by proclamation; if a majority should vote against it, then the delegates chosen should not be assembled. The date of the election was to be fixed by the governor, as also the date of the convention, in case a convention were called. February 28 was chosen by the governor for the election. North Carolina now became a political forge, and it was difficult to determine what would be wrought therein.

An event which had a perceptible effect in hastening the convention bill was the seizure of the United States forts, Caswell and Johnson. Early in January a report spread at the South that the administration at Washington purposed to garrison all southern forts; that troops were already on

³⁷ Letter of Z. B. Vance to G. N. Folk, *Raleigh Register*, Jan. 16, 1861.

³⁸ *Proceedings of the Legislature, Speeches*, *Raleigh Register*, Jan. 16 and 23, 1861.

³⁹ *Senate Journal*, 1860-1861, 206. *House Journal*, 1860-1861, 374. The vote in the senate was 37 for and 9 against the bill; in the house, 86 for and 27 against.

the way thither.⁴⁰ Forts Caswell and Johnson commanded the mouth of the Cape Fear River below Wilmington, consequently great excitement was produced in that town at the supposed purpose of the government. On the eighth of January a number of citizens, with a portion of the local militia, acting without orders, proceeded down the river and dispossessed the small garrison in Fort Caswell, Captain Thurston of the militia taking command. Fort Johnson contained no garrison.⁴¹ Two days later Governor Ellis directed the Third Brigade commander to require Thurston to withdraw the state troops.⁴² This was done on the thirteenth. Governor Ellis then wrote immediately to President Buchanan stating the cause of the outbreak and requesting a pledge that the forts should not be garrisoned during the present administration. He informed the President that the public mind was still excited, and that if such assurances were not furnished him he would not answer for the consequences.⁴³ Mr. Holt, secretary of war *ad interim*, replied to Governor Ellis, assuring him that it was not the purpose of the administration to garrison the forts at present; that the President trusted their safety to the law-abiding sentiments of the citizens of North Carolina.⁴⁴ The governor, at the request of the house of commons, laid the correspondence before the Assembly on the seventeenth, and the incident was closed. The state felt assured that the Buchanan administration would make no hostile move. Fort Macon in Beaufort harbor and the federal arsenal at Fayetteville remained undisturbed until Mr. Lincoln's call for troops in April.

Though nothing in the seizure of the forts could be

⁴⁰ Wilmington Daily Journal, Jan. 5, 6, 1861. This report seems to have had its origin in Georgia, based on an alarmist telegram sent by Senator Toombs from Washington. See Phillips, *State Rights in Georgia*, 201. The report caused a general seizure of forts on their coast by all the southern states in January.

⁴¹ For an account of the seizure of the forts see Wilmington Daily Journal, Jan. 9, 1861.

⁴² Ellis, MS. Letter-book, 329.

⁴³ *Ibid.*, 335.

⁴⁴ *Ibid.*, 336.

turned to account by either party in the convention campaign, the convention's supporters were greatly increased and strengthened by the progress of events in the cotton states and by the action of some of the northern states. Mississippi had seceded on the ninth of January; Florida on the tenth; Alabama on the eleventh; Georgia on the nineteenth; Louisiana on the twenty-sixth; and Texas on the first of February. New York and Ohio passed resolutions which defined the attitude of South Carolina as "treasonable" and "insurgent," and offered troops to the President for the purpose of her coercion. These resolutions, with requests to lay before the legislatures, were transmitted to the executives of the other states. Reaching North Carolina during the convention campaign, they served no purpose other than to irritate. With a short and caustic comment Governor Ellis laid them before the General Assembly.⁴⁵

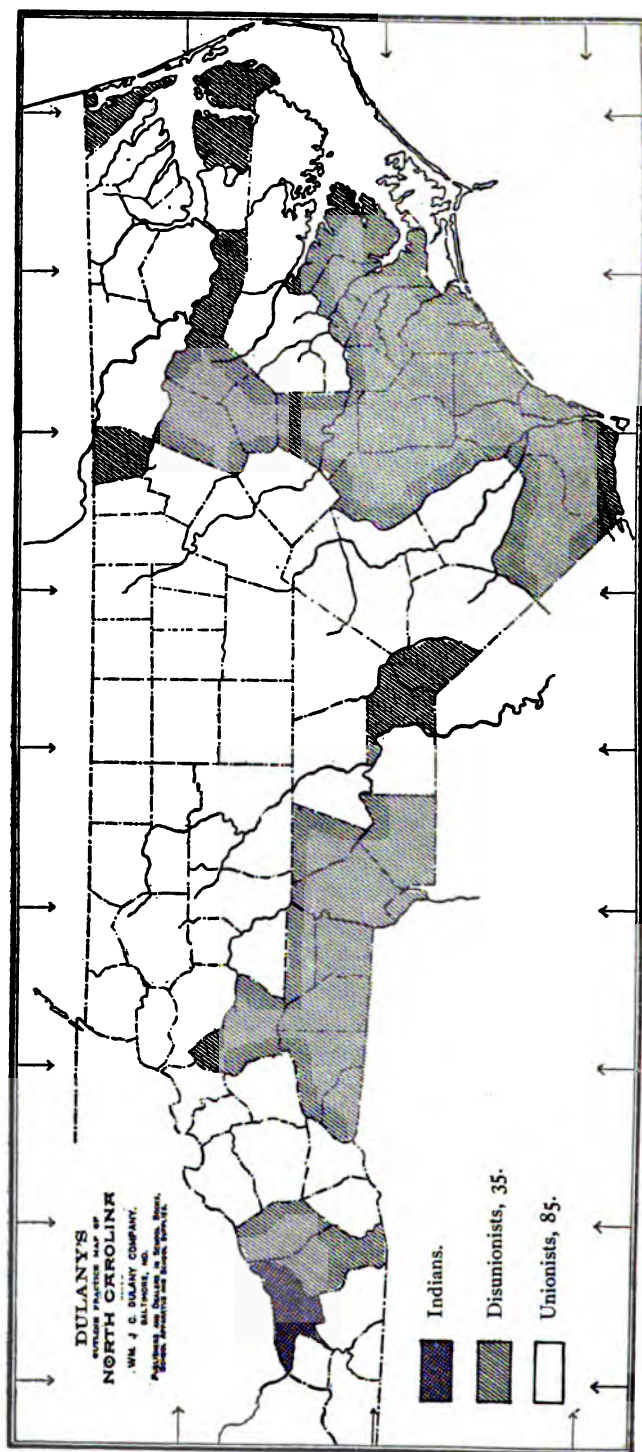
In the campaign for the convention the secessionists first used the term "state rights" to designate their party, maintaining that the rights and equality of the states was the end to which secession was only the means.⁴⁶ Those who opposed secession, whether nationalists or conservative Democrats, were called unionists throughout the canvass, without distinction of former party affiliation.

Both parties were active in getting candidates in the field, and these made the canvass as unionists or disunionists. The interest of the people was thoroughly aroused. After the Assembly had authorized the convention the unionist leaders who had opposed the movement, together with those who favored it, directed their efforts toward securing control of its action by the election of a majority of the delegates. Among those who became candidates were Messrs. Holden and Badger, for the county of Wake.⁴⁷

⁴⁵ Ellis, MS. Letter-book, 351, 355.

⁴⁶ State Journal, February 13, 1860.

⁴⁷ On the federal basis of population Wake County, containing Raleigh, was entitled to three representatives. Quentin Busbee was the third unionist candidate.



CONVENTION ELECTION, FEB. 28, 1861.

In a joint discussion⁴⁸ with his state rights opponent, February 14, Mr. Holden denied the right of a state to secede from the Union, favored the Crittenden Compromise, and asserted that it was the duty of the federal government to reinforce and defend Fort Sumter, and that the passage of troops across North Carolina for that purpose should not be resisted. This speech marked for Mr. Holden a position more extreme than that taken by any prominent unionist, whether old line Whig or conservative Democrat. All the nationalists of the union party were in agreement with him on the point of the unconstitutionality of secession, but probably none would have submitted to the passage of troops across the state. Certainly no leader so expressed himself. Their conception of the government would have reached its natural objective, revolution, before suffering such a disregard of the will of the state.

The people, fully instructed by press, pulpit, and politicians, proceeded to election on the twenty-eighth of February. When the result was known the leaders met a surprise. The convention had been defeated by a small majority,⁴⁹ while eighty-five union and thirty-five disunion candidates had been elected.⁵⁰ The surprise lay in the defeat of the convention. All the union leaders had consented to the convention after the passage of the convention bill, and many of them were candidates. All the prominent

⁴⁸ State Journal, Feb. 20, 1861, has a full report of Mr. Holden's speech, with severe criticisms.

⁴⁹ Ellis, MS. Letter-book, 392, official vote, Feb. 28, 1861,

No convention	46,603
convention	46,408
Majority against convention.....	195

Davie County was thrown out on account of some irregularity in the returns. With this vote counted as returned the majority against the convention was 651.

⁵⁰ This was the division made by the Raleigh Register, unionist. The Wilmington Daily Journal, March 13, 1861, taking account of differences on the theory of the Constitution, gave the delegates as follows: southern rights, 46; conditional submissionists, 22; submissionists, 52.

union newspapers, with one exception,⁵¹ favored the convention. Yet the people, distrusting its possible action, had refused its call. They had done this, too, though every state south of North Carolina's border was out of the Union and a member of the Southern Confederacy.

The state rights party accepted with ill grace the results of this contest. The charge was freely made that foul play had been used by the unionists; that the old Know Nothing party lines had been drawn in secret and the convention, regarded as a Democratic measure, had been slyly killed.⁵² This was mainly party chagrin. The real cause of the defeat of the convention lay in the fear of the people as to what it might do. There had been no lack of definiteness as to the intention of the state rights party in the event that it elected a majority of the delegates and the proposition for a convention was carried. Its candidates and press repeatedly avowed that the issue at the polls was union or disunion.⁵³ Though a large majority of the people had trusted to the election of union delegates to secure the fulfillment of their wishes, yet a small majority within this greater one made sure by the defeat of the convention itself. Many unionists voters, however, favored a convention to deal with the question which threatened them in the Union, and they had so expressed themselves at the polls; therefore, an interpretation of the union sentiment at this date must be based on the election of the eighty-five union as against the thirty-five disunion delegates rather than on the small majority against the convention.⁵⁴

Immediately after the election an incident occurred in Raleigh, growing out of the election results, which, though within itself of minor significance, caused an acrimonious

⁵¹ The Greensboro Patriot always opposed this convention.

⁵² State Journal, March 13, 1861.

⁵³ Wilmington Daily Journal, files for Feb., 1861. State Journal, files from Feb. 13 to 28, 1861.

⁵⁴ Bedford Brown testified before the Reconstruction Joint Committee of Congress, March 28, 1866, that the vote for union candidates in this election was in the ratio of 2 to 1 against disunion. Report of Committees, 1st sess., 39th Cong., vol. II, 262.

discussion between the union and state rights newspapers and left men's minds in a heated and irritated condition. The unionists in Wake County elected their candidates, Messrs. Badger, Busbee, and Holden, by large majorities. To celebrate their local and state victory a large and enthusiastic torch-light procession was held in the capital. This procession in passing the governor's mansion halted and gave vent to groans, presumably in disapprobation of that official's radical activity in the cause of secession. The state rights party organ magnified the incident into a serious indignity put upon Governor Ellis because of his righteous effort in behalf of the southern cause.⁵⁵ A few fights between citizens who held different political views increased the tension between the parties and led the editor of the *State Journal* to dub the month succeeding the election the "Reign of Terror."⁵⁶ There is no evidence, however, that the demonstration in front of the governor's residence was a studied indignity. It seems to have been the impulse of a moment aroused by thoughtless suggestion. As to the month succeeding, the so-called "Reign of Terror," it was indicative of the temper of the unionists not to yield anything of their moral and material victory over the disunionists.

While the canvass for the convention was in progress in North Carolina the Peace Conference met in Washington to seek a method of averting the danger that threatened the country. Organization was effected February 4 by the choice of John Tyler of Virginia as president. North Carolina's General Assembly had appointed, January 29, two commissions, one of five members to the Peace Conference, and another of three members to the Southern Convention at Montgomery, which also met on February 4, and a few days later formed the provisional government of the seceded states. The resolutions of appointment were identical in language with the exception of the names of commissioners

⁵⁵ *State Journal*, March 13, 1861.

⁵⁶ *Ibid.*, April 3, 1861.

and conferences. Both declared the object of the commission to be "the effecting an honorable and amicable adjustment of all the difficulties that disturbed the country, upon the basis of the Crittenden resolutions, as modified by the Legislature of Virginia."⁵⁷

The commission to the Peace Conference was composed of three Democrats and two Whigs. The latter were ex-Chief Justice Thomas Ruffin and ex-Governor James M. Morehead. Of the three Democrats only ex-Governor Reid was prominent in state politics. The two Whig members entered the conference with a strong desire for harmony and for an adjustment whereby the Union might be saved, and for this end were prepared to compromise.⁵⁸

Seven articles were finally adopted by a majority of the twenty-one states represented in the conference. These were to be presented to Congress with the hope of their endorsement and subsequent submission to the states for their ratification as amendments to the Constitution. Only two of the articles satisfied the Democratic majority of the North Carolina commission and received the vote of the state. These were the third and the fourth. The third denied the right of Congress to interfere with slavery where it already existed or in the territories where it was recognized, and prohibited forever the foreign slave-trade and the domestic trade in the District of Columbia. The fourth sanctioned the fugitive slave law and provided payment by the federal government in cases where slaves were rescued by mobs from the custody of federal marshals. Since the people in a state convention would pass finally upon them, Messrs. Ruffin and Morehead wished to give the vote of the state to the articles as a whole; but the Democratic majority, considering the five articles a surrender of southern rights, refused.⁵⁹ The Democratic members of the com-

⁵⁷ Victor, *History of Southern Rebellion*, I, 336.

⁵⁸ *Carolina Watchman*, March 9, 1861, has reports of the speeches of Messrs. Ruffin and Morehead before the conference.

⁵⁹ Ellis, *MS. Letter-book*, 384, 385, reports of the commission to the governor.

mission had never been sanguine of any good resulting from the conference.

During his absence in Washington Mr. Reid was named by his native county, Rockingham, as one of its candidates for the proposed state convention. His letter of acceptance was used for campaign purposes by the state rights party.⁶⁰ It expressed a lack of confidence in any satisfactory results issuing from the conference of which he was a member and emphasized the futility of its efforts. Admitting that a conservative element existed at the North, he pointed out that it was too weak to control the actions of the radical administration about to be inaugurated; and therefore, that the interests and destiny of North Carolina lay with the seceded states.⁶¹ Senators Clingman and Bragg also wrote on February 18 that nothing favorable was to be expected from the Peace Conference. Mr. Clingman warned the people that it was the determination of the Republican party to subjugate the South and, finally, to abolish slavery in the states even at the risk of civil war. He advised resistance, holding out the hope that, with North Carolina and Virginia with the seceded states, the North would hesitate to make war.⁶²

The Peace Conference adjourned February 24. Its plan, adopted by so narrow a margin, went to Congress without a compelling moral force. The radicals of neither North nor South were pleased. Minority members of delegations from many of the states whose votes were cast for it were strong assailants of its provisions.⁶³ The complete failure of the plan when it came before the Senate March 4 (congressional day, March 2) was a severe blow to the unionists' position in North Carolina. From it they had expected

⁶⁰ Commissioner Reid to his Constituents, *Wilmington Daily Journal*, Feb. 20, 1861.

⁶¹ Commissioner Reid to his Constituents, *Wilmington Daily Journal*, Feb. 20, 1861.

⁶² Letters of Clingman and Bragg, *State Jour.*, Feb. 20, 1861, Feb. 27, 1861.

⁶³ Chittenden, *Debates and Proceedings of the Peace Convention*, 440 et seq.

much,⁶⁴ and were slow to relinquish their hope.⁶⁵ Disappointed in the conference, they now turned to Lincoln's inaugural address as indicative of moderation and peace,⁶⁶ a chart by which the border states would find it difficult to sail between the northern Scylla and the southern Charybdis.

The failure of the peace plan was a stimulus to the state rights party in the same degree that it was crushing to the unionists. Lincoln's address was interpreted as a menace rather than a promise of future security.⁶⁷ The commissioners to Montgomery, occupying seats on the floor of the congress, had seen the provisional government of the Confederacy take form on the eighth and ninth of February. The question "What further need for the unionists' shibboleth 'watch and wait'?" often repeated by the state rights party,⁶⁸ was answered with increasing difficulty.

The *Wilmington Daily Journal* of March 4 suggested a plan of action which became at once the policy of the state rights party. This plan contemplated another state convention. For its call an extra session of the Assembly would be necessary. The governor, though well known to be favorable, was not likely to call the Assembly together

⁶⁴ Samuel Hall, Georgia's commissioner to North Carolina, reporting to the Georgia Convention on the results of his visit to North Carolina, February 11, 1861, stated that the belief entertained by a large number of North Carolina citizens that the Peace Conference would be able to compose the sectional differences prevented the state's immediate coöperation with the Southern Confederacy. *Journal of the Georgia Convention*, 343.

⁶⁵ James M. Morehead wrote on March 1 that the compromise would be effective. Letter in *Raleigh Register*, March 6, 1861. Representative Gilmer informed his constituents that Congress would doubtless adopt the peace plan. Letter of Gilmer, *Standard*, March 6, 1861.

⁶⁶ *Raleigh Register*, March 13, 1861. *Standard*, March 13, 1861.

⁶⁷ *State Journal*, March 13, 1861.

⁶⁸ The *Wilmington Daily Journal* of March 11, 1861, said: "Let North Carolina not wait irresolute until it is said she had to be kicked out (of the Union), as has been sometimes sneeringly said of her. It took two trials to get her into the Union, and much talking and explanation. This shows that no action taken in changing times can possibly be regarded as unchangeable. It may take two trials to get her into the Southern Union. What then? Shall we not make them?"

for this purpose so soon after the late defeat unless there was a strong demand for such action. The *Journal's* plan was to give this demand an effective form. Delegates who had been elected to the defeated convention were invited to meet as an advisory body of citizens, which, if not a legally organized assembly, would at least be composed of gentlemen legally chosen, whose views would necessarily have much weight, both within and without the state. The movement would have to be wholly spontaneous on the part of the delegates and at their own expense. Goldsboro was suggested as the place of meeting,⁶⁹ and April 4 indicated as the date. The plan received such hearty endorsement from the party that the earlier date of March 22 was fixed upon. The course of national affairs still further lent force and activity to the state rights party, for besides the failure of the peace proposition and the fact that Lincoln's "address" furnished no tangible guarantee for peace and security, David Wilmot was entering the United States Senate, and the strongest places in the President's cabinet had been filled by Seward and Chase. These three men were looked upon as life-long enemies to southern rights.

The proposal for the Goldsboro convention contained an invitation to all delegates of both parties who had been elected February 28. As has been seen, more than two-thirds of these delegates were unionists. They refused to countenance the Goldsboro meeting, and it was denounced by the unionist press as illegal and revolutionary.⁷⁰ With only the secession delegates remaining, the convention was turned into a mass-meeting wholly secessionist, with the secession delegates as a nucleus to give it the character of a convention. About twenty-five counties were represented during the two days' session, each of these sending as many delegates as there were persons willing to go.⁷¹ Some

⁶⁹ Raleigh was logically the place for the meeting, but was unionist in sentiment, while Goldsboro was strongly secessionist.

⁷⁰ Fayetteville Observer, March 18, 1861.

⁷¹ In Wilmington a number of new delegates were elected March 20. The proceedings were less regular in other places. Wilmington Daily Journal, March 20, 1861.

near-by counties were represented by several hundred, some by fifty, and about half by from one to three delegates.⁷² Most of the twenty-five counties were middle state and eastern, the territory represented coinciding roughly with the slave-holding area of the state. From Rowan County Representative Craige brought the delegation. Holding strong state rights views, and a close personal friend of Governor Ellis, Mr. Craige's attendance at Goldsboro gave the convention official recognition and endorsement. The body organized March 22 by the choice of Weldon N. Edwards as chairman. The first period of the session was given over to a speech from Franklin J. Moses,⁷³ commissioner from South Carolina. Mr. Moses referred to the natural affinity between North Carolina and the seceded states and reminded his hearers of the difficulties which then beset them in the old Union and which, he averred, would grow constantly worse; but security, peace, and fraternal feeling awaited them in the arms of the southern union.

The important work of the convention was embodied in its favorable action on a set of resolutions brought in on the second day by a committee under Mr. Craige. These resolutions set forth that the vote taken on the convention February 28 was not the deliberate fiat of the people; that subsequent events had brought many into a readiness for reconsideration of the state's relations to the Union. Therefore, it was recommended that an organization should be formed whose object should be the dissemination of the facts and the presentation of the arguments bearing upon the issue to the people of every county, in the belief that when this information was in the minds of the people they would demand of the governor and the Assembly an opportunity to express their wishes at the ballot-box. In accord-

⁷² The *State Journal*, March 27, 1861, contains a list of the delegations and a full report of the proceedings of this convention.

⁷³ Moses' speech is published in the *Wilmington Daily Journal*, March 25, 1861. This speech, viewed from a calmer distance, cannot but appear presumptive and demagogical. He addressed his hearers as "fellow-citizens," saying that it was not an inadvertance, as they would soon be in the Southern Confederacy.

ance with the resolutions two men were appointed in each congressional district to make up an executive committee of the Southern Rights party for the state.⁷⁴ It was further recommended that the Southern Rights citizens of each county form organizations whose executive offices should correspond with the state executive committee and be a means for promoting the party principles. A final resolution declared that the interest and honor of North Carolina demanded political connection with the Southern Confederacy.

In the two days' proceedings of this Goldsboro Convention is observable an entire absence of any disposition to preserve the Union. No word indicated the existence in the mind of any person of a hope of the restoration of that amity and brotherhood which once existed between the sections. No form of compromise likely to be reached offered security; therefore, the party stood ready to carry into practice the particularistic theory of the government which had never been dead where the state rights party was now strongest. Within a week of the adjournment of the convention the citizens of many state rights counties had organized in accordance with the recommendation.⁷⁵

In changing times a party with a policy to offer secures advantage by reason of its readiness and positive program. The unanimity of the representatives in the Goldsboro Convention, their aggressiveness, and the definiteness of their plans are in sharp contrast with the confusion that prevailed among the unionists. Though in a majority, the unionists were forced into the attitude of merely an opposition party. Only past blessings could be instanced as reasons for fidelity to the Union. This could not long be a very potent argument when the present was so threatening and the future unfathomable. The unionists, unable to

⁷⁴ The convention adopted the name, "Southern Rights," in lieu of state rights, which had been used in the campaign for the convention.

⁷⁵ *Wilmington Daily Journal*, March 30, 1861. New Hanover formed its association March 29, 1861.

offer a solution, could only attack the irregularity of the proceedings of the state rights party. The Goldsboro Convention was bitterly assailed, and Moses was accused of trying to induce the leaders to override the will of the people.⁷⁶ The disunion leaders were reminded that the ballot-box was the arbiter of all political controversies in our form of government; that the decision had been given on February 28, and, until a new contingency arose, should be final.⁷⁷

Freedom of speech and toleration of opposing opinion were generally insisted upon throughout March and the first two weeks of April, though infractions of the rule were occasional on the part of both parties in the respective localities where they were in large majorities.⁷⁸ In Wayne, a strong secession county, a speaker gave offense by his conservatism on the leading question, slavery. A committee of ardent secessionists waited upon him and threatened a coat of tar and feathers as an aid to a change of sentiment.⁷⁹ In Raleigh, on April 8, some young men wearing Confederate cockades in their hats raised a small Confederate flag on a pole in a vacant lot. The movement excited the ire of many of the bystanders, and called forth a threat to cut down the pole. Though the threat was not executed, one bellicose union man blazed away at the flag with a rusty old fire-lock amid the applause of the crowd.⁸⁰ Raleigh, however, stood firmly unionist,⁸¹ despite the attitude of the governor and of his administration.

⁷⁶ Carolina Watchman, March 26, 1861.

⁷⁷ Ibid., April 2, 1861.

⁷⁸ Early in January Hinton R. Helper's book, "The Impending Crisis," brought a number of abolitionists into trouble in Guilford, Randolph, and neighboring counties where the Quaker influence was very strong. This book was classed under "incendiary literature," against the circulation of which a state law existed.

⁷⁹ Standard, March 20, 1861.

⁸⁰ Raleigh Register, April 10, 1861.

⁸¹ A train bearing a large number of secession delegates on their return from the Goldsboro convention made a stop at the Raleigh depot where a large crowd of citizens were collected Sunday morning, March 24. The secessionists, fresh from the enthusiasm of their meeting, singing "Dixie" and otherwise giving vent to their

The Southern Rights party had lost no time in perfecting its organization along the lines laid down at Goldsboro, and was busily engaged in holding county meetings and in sending petitions to the governor for a call of the General Assembly in extra session. Public opinion was in a formative stage. Governor Ellis was not yet prepared, however, without further developments, to disregard the people's decision, but for this he had not now long to wait. External events were hastening which would affect North Carolina and force her to a rapid decision.

On the twelfth of April Fort Sumter was fired on by order of the Confederate government. The next evening the garrison surrendered. Lincoln's call for troops followed on the fifteenth, and Governor Ellis needed now only to direct the popular impulse. Immediately upon the reception on that day of Secretary of War Cameron's telegram that two regiments of troops were required of North Carolina, the governor convened his council, and after a short consultation sent the following reply:

"Your dispatch is received, and, if genuine—which its extraordinary character leads me to doubt,—I have to say in reply, that I regard the levy of troops made by the Administration, for the purpose of subjugating the States of the South, as in violation of the Constitution, and a usurpation of power. I can be no party to this wicked violation of the Constitution, and to this war upon the liberties of a free people. You can get no troops from North Carolina."⁸²

A telegram from Governor Pickens of South Carolina

feelings, were incautious enough to yell from the waiting train that Raleigh was "a d—d abolition hole," whereupon they were invited by the citizens to alight and prepare to defend their assertions. Promptitude was not lacking on the part of the delegates. A free-for-all fight was averted only by the timely departure of the train. See *Standard*, April 3, and *Raleigh Register*, March 27, 1861, for accounts of this incident. The *Register* expressed a fear of civil war within the state.

The *Wilmington Daily Journal*, March 27, deplored the Union sentiment of the capital.

⁸² Ellis, *MS. Letter-book*, 398.

also reached Governor Ellis on the fifteenth. It was written at Charleston, and read:

"Fort Sumter surrendered after our troops had made terrible havoc upon it. There is a fleet off our bar with several thousand troops on board. If they attempt a landing, we are prepared for them. We will do our duty. Fort Pickens has been reinforced. Will North Carolina stand this?"⁸³

The telegrams of Secretary Cameron and Governor Pickens, both received April 15, and representing the appeals respectively of the North and the South, left Governor Ellis in no uncertain state of mind. On the same day he directed Captain Croton to proceed with his company of state troops from Goldsboro to Beaufort and to take possession of the harbor and of Fort Macon.⁸⁴ A similar order was given to Colonel Cantwell in regard to Forts Caswell and Johnson. Both orders were executed by the seventeenth. These officers were commanded to observe a peace policy and when once in possession of the forts to act only on the defensive. On the seventeenth a regiment of militia was ordered to Fayetteville to take possession of the United States arsenal, then guarded by a company of federal troops. The militia commander, Colonel Cooke, was instructed to employ force in the event of a refusal by the company to surrender. Force, however, was not necessary, the company of regulars surrendering at discretion to the two thousand troops demanding it.⁸⁵ Brevet Major Anderson, in command of the arsenal and troops, resigned his commission under the United States government, leaving the command to Lieutenant D'Lagnel, who by the twenty-seventh had made all

⁸³ Ellis, MS. Letter-book, 399.

⁸⁴ *Ibid.*, 400.

⁸⁵ 37,000 muskets and rifles; a complete battery of cannon; a large quantity of powder, with other military stores, were surrendered. See Fayetteville Observer, April 29, 1861.

President Jefferson Davis gives the number of muskets and rifles taken at Fayetteville as 27,000. These were probably all that were serviceable. See *The Rise and Fall of the Confederate Government*, vol. I, 471.

necessary preparations for sending his company down the river to Wilmington and thence to New York. The inhabitants of Fayetteville offered every courtesy and facility to the lieutenant, and on the twenty-seventh the company took steamer without any unpleasant incident marring the departure. The United States mint at Charlotte had been taken over on the twenty-second. A military inspector for the state was appointed and empowered by the governor to exercise all powers necessary for the public defense, to extinguish lights and to seize vessels belonging to the enemy.⁸⁶ Five thousand volunteers tendered their services to the governor before the call for thirty thousand on the twentieth. A military encampment was established at Raleigh, where the work of drilling the state troops and the volunteers went rapidly forward. Large sums of money were subscribed by private individuals to assist in equipping the troops.⁸⁷ Nominally, North Carolina was to remain a month longer in the Union; in reality, she was out of it the day after Secretary Cameron's telegram for troops was received.

By proclamation on April 17 Governor Ellis had called the members of the General Assembly to meet in extra session on the first day of May. The proclamation closed with the words: "United action in defence of the sovereignty of North Carolina and the rights of the South becomes now the duty of all."⁸⁸ The Virginia legislature on the same day passed its ordinance of secession, subject to ratification by a vote of the people. On the twenty-fifth it ratified the constitution of the Provisional Government of the Confederate States of America, at the same time entering into a convention by which all Virginia's forces, forts, and military equipment were placed at the disposal of the Confederate government.⁸⁹ The secession of Virginia went far toward

⁸⁶ Ellis, MS. Letter-book, 413. Ellis to Inspector Whitney.

⁸⁷ Raleigh Register, April 24, 1861.

⁸⁸ This proclamation may be found in all the state papers of date.

⁸⁹ Stephens, *War Between the States*, vol. II, 378. *Journal of Virginia Convention*, 1861, 196.

stilling the voices in North Carolina that seemed yet inclined to be raised for the government of the fathers.⁹⁰

After the call of Mr. Lincoln for troops, resistance, whether it be termed secession or rebellion, became the overwhelmingly prevailing sentiment in North Carolina. Differences on the theory of the Constitution were for the moment hushed in the din of preparation for battle. Abridgment of party differences for a common purpose, rather than a surrender of principles on either side, secured unity of action. Mr. Graham admitted early in May that the time was ripe for revolution.⁹¹ Mr. Badger expressed similar views but favored a central confederacy as the object of revolution.⁹² Mr. Holden was less committal; he drifted with the tide, deprecating at the same time the supremacy of northern and southern extremists. The unionist press with unanimity now admitted separation to be inevitable.⁹³

Governor Ellis met the General Assembly on May first with an ably written message in which he labored to convert those who did not believe in the constitutional right of secession. He reviewed the whole theory of government upon which the Constitution was founded.⁹⁴ The southern position of state sovereignty was clearly defined, as set forth by the framers of the constitutional compact. Assuming

⁹⁰ The Greensboro Patriot was the last reputable journal in the state to advocate separation.

⁹¹ William A. Graham's speech at Hillsboro, *Standard*, May 15, 1861.

⁹² Letter of Mr. Badger, *Raleigh Register*, May 10th, 1861.

⁹³ The Fayetteville Observer lost hope April 15. With stubbornness and reluctance it came to support a separatist policy and independence of the state, free of North or South. It blamed "the efforts of a stupid and treacherous administration on the one hand and the malcontent fire-eaters on the other" for "the guilt and folly of destroying the best government on earth." *Observer*, April 15, 1861.

The Carolina Watchman, the focus of Whig sentiment in the west, came over without any reservations. April 23 it said: "President Lincoln's proclamation and call for volunteers to coerce the seceding states has, for the time being, settled every political difference between the people of this section. If he had spent a whole year in devising a method to unite the southern people he could not have brought out anything more successful."

⁹⁴ Message, Ellis, MS. Letter-book, 409, et seq.

that the state would secede and join the Confederacy, he recommended a convention of the people as the only method by which secession could constitutionally be accomplished. The convention, he said, should be unlimited because of the need in strenuous times of resorting to a tribunal for decisions; the action of the convention should be final because of the importance of a speedy separation from the northern government. The message further showed what action had been taken to place the state in an attitude of offensive and defensive warfare and recommended a large appropriation for arsenals and the manufacture of arms.

The Assembly took swift action on the convention bill,⁹⁵ carrying it through all its readings and to its final passage on the first day of the session. The bill provided for a convention, unrestricted in powers and final in action, to be composed of one hundred and twenty delegates elected on the federal basis of population in the counties. The election should be held on the thirteenth and the convention meet on the twentieth. So rapidly did legislative machinery move that the governor was able to issue his election proclamation on the same day that he had sent in his message recommending the convention. Other important recommendations, in a special message from the governor, were speedily embodied in legislative enactments. The governor was authorized to tender to Virginia the services of North Carolina troops not immediately wanted for coast defence.⁹⁶ Five hundred thousand dollars were placed at his disposal in addition to the amount appropriated by the regular session for arming the state.⁹⁷ A bill was passed authorizing counties to make subscriptions for the purpose of arming and equipping volunteers.⁹⁸ The statute requiring state officers to take an oath to support the Constitution of the United States was repealed.⁹⁹ The Democratic program of

⁹⁵ Journal of N. C. General Assembly, extra session, May 1, 1861.

⁹⁶ Resolution passed May 1, 1861.

⁹⁷ Journal N. C. Gen. Assembly, extra session, May 2, 1861.

⁹⁸ Ibid., same date.

⁹⁹ Ibid., May 3, 1861.

preparation encountered no opposition. The constitutional union Democrats, now that they considered the Constitution definitely broken by the aggression of the North, had gone over in a body to the side of their secession brethren. The nationalists, ready for revolution, aided in the preparations.¹⁰⁰

In the twelve days intervening between the call for the convention and the election of delegates there was little time for an alignment of parties. The only point of difference was whether separation should take the form and title of revolution or of secession. This would depend upon whether the convention was controlled by those who held the national theory of the Constitution or by those who held the compact theory. In most of the counties party lines were obscured to such an extent that there is no method of marking the division of sentiment except by the subsequent voting of their delegates in the convention. In many counties the old alignment continued.¹⁰¹ Those who had been candidates as unionists in February now became candidates as revolutionists, but with much less hope of election over their secession opponents.

The convention assembled May 20, with unrestricted powers but under implied instructions to separate from the federal Union. Of the one hundred and twenty delegates elected the whole number were soon in attendance. That the people of the state realized the gravity of the situation is attested by the character of the convention. Sixty-seven of the delegates had had the advantage, either in whole or in part, of a collegiate education. Of the remaining fifty-three, sixteen were physicians who had taken professional courses.¹⁰² From the list of delegates the only names of

¹⁰⁰ Jour. N. C. Gen. Ass., ex. sess., May 3, 1861. Their votes were recorded in the affirmative on each of the foregoing measures.

¹⁰¹ Messrs. Geo. E. Badger, W. W. Holden, and K. P. Battle were reelected in Wake after a close contest with Thomas Bragg, Charles Manly and G. W. Mordecai.

¹⁰² McCormick, J. G. *Personality of the Convention of 1861*, published in James Sprunt Historical Monographs.

Mr. McCormick's monograph was prepared under the personal supervision of Prof. K. P. Battle of the Dept. of Hist. in the Univ. of N. C. Prof. Battle was a member of the convention.

political prominence that were absent were those of Z. B. Vance, James M. Morehead and Willie P. Mangum, of the Whigs, and Senators Clingman and Bragg, Charles Manly and Moses A. Bledsoe, of the Democrats. The absence of these leaders was due in large part to the comparatively small total number of the convention, together with the conflicting claims upon the suffrages of the people of candidates in the same county.

The convention chose Weldon N. Edwards as chairman over Wm. A. Graham, by a vote of sixty-five to forty-eight. Mr. Edwards had been chairman of the self-constituted Goldsboro Convention. Mr. Graham was the candidate of the revolutionists. Immediately after organization Mr. Badger offered his ordinance of separation, based on the right of revolution. This document¹⁰³ is remarkable for the evenness of its tone and for the vividness with which it portrayed the past and present political conditions of the state. The long preamble recited the grievances of North Carolina, her efforts to remain in the Union and her reasons for the same, and finally, the climax of her grievances in Lincoln's proclamation and call for troops. Then followed the ordinance declaring North Carolina free and independent. All reference to secession as a legal right was carefully avoided by Mr. Badger. Before the vote was taken Mr. Craige, the floor leader of the secessionists, offered an ordinance and moved it as a substitute for that of Mr. Badger. Mr. Craige's ordinance,¹⁰⁴ based on the constitutional right of a state to withdraw from the Union at will, simply abrogated and rescinded the ordinance of the state convention which ratified the Constitution of the United States in 1789.¹⁰⁵ The two ordinances, representing re-

¹⁰³ Journal of the North Carolina Convention of 1861, 10, 11.

¹⁰⁴ Journal of the North Carolina Convention of 1861, 16.

¹⁰⁵ The secession ordinance introduced by Mr. Craige and by which North Carolina withdrew from the Union was written by Judah P. Benjamin of President Davis' cabinet, and sent by a special messenger, Mr. James M. Hines, to Governor Ellis at Salisbury. Governor Ellis charged Mr. Craige with its introduction in the convention. The object of the Confederate government was to secure

spectively the national and the compact theory of the government, were now before the convention for a decision. The debate was short, carefully pruned on both sides of all hostility, and reduced practically to explanations of the respective positions of the supporters of the ordinances.¹⁰⁶ The vote resulted in seventy-two for and forty against substitution,¹⁰⁷ this being the test vote. The revolutionists were outnumbered by thirty-two. Among those who voted against the substitution were Messrs. Gilmer, Graham, Battle, Ferebee, Badger, Dick and Holden, all life-long Whigs except the two last named, who were both recent acquisitions.

Immediately after the test vote, the vote on the passage of the substituted ordinance was taken and resulted in a unanimity of ayes.¹⁰⁸ The revolutionists deemed it unwise to weaken the attitude of the state at such a period by a continued division over a question of constitutional interpretation. Within an hour after the passage of the secession ordinance a second ordinance was introduced and passed ratifying the Provisional Constitution of the Confederate States of America. Thus the citizens of North Carolina had been under three different governments within the space of as many hours. The state had been the last of the southern states to enter the Union and the last to withdraw.

The record of the yeas and nays upon the substitution of the ordinance of secession for the ordinance of revolution

uniformity in the method by which the border states should withdraw. Mr. Hines, the Confederate messenger, is now living in St. Louis, Mo.

¹⁰⁶ One Union-loving mountain delegate had no patience with the temper of the convention. Exasperated at the secessionists' constant reference to the example of South Carolina, he rose to his feet. Towering in height, with long arms gesticulating, indignant in mien, and in language more eloquent than grammatical or chaste, he exclaimed: "Let South Carolina nullify, revolute, secess, and be *darned*! North Carolina don't have to follow her lead!" Personal reminiscence of a member.

¹⁰⁷ Journal of the Convention, 16.

¹⁰⁸ Journal of the Convention, 16. One hundred and fifteen, all the delegates in the hall, voted for the ordinance. The remaining five had their votes recorded for it the following day.

enables the vote of each delegate to be traced to the county which he represented. Making large allowance for the influence of popular leaders, the expected fact is disclosed that the constituencies of delegates who voted for revolution occupied the strongholds of the old Whig party, and that these strongholds were, in turn, coincident with the territory: first, where slavery as an economic institution did not exist, as in the mountain country; second, where the staple crops were not grown and slavery was consequently a weak economic factor, as in portions of the Piedmont country; third, where the Quakers were dominant, as in Guilford, Randolph, and Chatham Counties; and fourth, where a large poor white population inimical to slavery existed, as in the poorer eastern coast and swamp counties.

CONCLUSIONS.

From the foregoing study the writer feels that the following conclusions may be justly drawn :

1. That North Carolina entered the federal Union in the belief that the act by which she ratified the Constitution did not divest her of sovereignty. The theory obtained that sovereignty was divisible and that the federal government was the agent of the federated states, empowered to exercise their sovereign powers to the extent granted by the constitutional compact.

2. That the slight jealousy manifested for state sovereignty by North Carolina during the first fifty years of union was due, not to a change of theory, but to a growing sense of appreciation of the benefits derived from the work of the agent, a government which should be loyally supported as long as its controlling principle was a just preservation of the line of demarcation between the powers delegated to it and those retained by the states.

3. That during the Whig régime in the state from 1835 to 1850 the first indications appeared of the growth of a true national spirit. This spirit, though weak in its first years of existence and confined to the portion of the state which was less influenced by slavery, really interpreted the Constitution as having created, not a federal compact of sovereign states, but an indissoluble national unity.

4. That though this spirit of nationalism grew apace under pressure of fear for the Union, aroused by the slavery agitation from 1850 to 1860, it never became strong enough to successfully combat the state rights forces, which were united in defence both of slavery and of the principle upon which they conceived the Union to be founded.

5. That a majority even of those who believed in the compact theory went out of the Union in 1861 reluctantly, under pressure of rushing events, influenced by a common interest with the slave states, and in the belief that secession, though now inevitable, was too hastily adopted as a remedy for the grievances of the South.

**NATIONAL LABOR FEDERATIONS
IN THE UNITED STATES**

SERIES XXIV

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IN THE UNITED STATES

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TABLE OF CONTENTS.

INTRODUCTION	9
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PART I.

GENERAL LABOR FEDERATIONS.

	PAGE.
CHAPTER I. History	13
CHAPTER II. Structure	31
CHAPTER III. Functions	50

PART II.

TRADES COUNCILS.

CHAPTER I. History	79
CHAPTER II. Structure	88
CHAPTER III. Functions	97

PART III.

INDUSTRIAL UNIONS.

CHAPTER I. History	117
CHAPTER II. Structure	127
CHAPTER III. Functions	134

PREFACE.

This monograph had its origin in connection with an investigation of certain phases of American trade unionism undertaken by the Economic Seminary of the Johns Hopkins University. In addition to the large collection of trade union publications now in the Johns Hopkins University, the author had access to important materials at the headquarters of various unions. The information secured in this way has been supplemented by personal observation and by interviews with prominent labor leaders in the cities of Washington, Chicago, St. Louis, and Denver.

The author wishes to acknowledge the assistance received at every stage of the work from Professor Jacob H. Hollander and Dr. George E. Barnett, of the Johns Hopkins University.

W. K.

NATIONAL LABOR FEDERATIONS IN THE UNITED STATES.

INTRODUCTION.

The trade union has always been and still remains the dominant form of labor organization in the United States. In the development of the labor movement, however, particular purposes and conditions have produced associations uniting in a single organization workmen of different trades. The present essay deals with the history, structure, and functions of such inter-trade associations or labor federations.¹

Labor federations, as they have developed in the United States, may be divided into two great classes: general federations and industrial federations.

General federations include in their membership workmen of all trades. Part I of this essay deals with such associations; their history, structure and functions are treated in successive chapters. In Chapter I, the attempt has been made, not to give an exhaustive history of general federations, but to present those facts which seem to illustrate the general tendency of workmen to unite under a common government. Chapter II deals with the internal organization of general federations, clearing the way for Chapter III, in which a review of their activities in certain typical fields is presented. As will be seen, structure has exercised a determining influence on the kinds of activity favored by

¹ In using labor federation as synonymous with inter-trade association, common usage among trade unionists has been followed rather than the political significance of the term. Ordinarily, as will be shown, inter-trade associations are federations in the political sense; but some of the associations have highly centralized governments.

the national body, and conversely, the attitude of the organization toward national policies,—sympathetic strikes, political affiliations, socialism,—has produced definite changes in general structure.

Industrial federations or associations of several or all the trades employed in an industry, fall into two divisions—trades councils and industrial unions. Part II of this essay deals with trades councils and Part III with industrial unions.

The trades council differs from the industrial union in several important respects. The trades council in government is a loosely organized association, while the industrial union tends towards a high degree of centralization. Again, the trades council does not ordinarily aim to include all the workers in the industry but only the more closely related trades—usually, the subdivisions of the original craft. The trades council is the form of industrial federation preferred where trade interests are still strong enough to make the maintenance of separate trade unions desirable. The sheet metal workers, the machinists, the saw smiths, have enough in common to join a metal trades federation. At the same time, questions are constantly arising which concern only the separate trades. On the other hand, in some industries, the interests of the workman are so closely identified with those of his fellow workers in the industry that the organization by trades becomes subordinate to organization by industry or disappears altogether. In these industries, the industrial union is the form of federation usually adopted.*

The rapid introduction of machinery in some trades has obliterated the old boundaries, and the sharp distinctions

* An important consideration is the stability of the employing class. In the building trades, the workmen are constantly shifting from one employer to another. Their fellow workmen in the other trades are always changing. The interests of carpenters and bricklayers, for example, are frequently identical; but each trade has much work which has no connection with that of the other. In those industries where the same trades are always associated, and where the working force has the same employer throughout the year, industrial unions are more likely to be formed.

formerly observed are no longer considered of sufficient importance to warrant separate national unions for each trade. The brewing industry is a striking example of this development. In August, 1886, a national trade union including skilled brewers only was formed. A short time thereafter it became evident that the union was seriously handicapped by the members of other trades in the industry who remained at work while the brewers were on strike. Largely to overcome this difficulty a more comprehensive organization was formed. The new union was designed to embrace under a single national control all workers in the industry; at the same time trade autonomy in some matters was conceded. This change in structural form was due in large measure to the introduction of the ice machine which changed the character of the industry. The storage houses, formerly so important a part of every brewery, were replaced by mechanical departments, such as boiler houses, engine rooms, etc. Many old brewers, often assisted by beer drivers or other employees, served as brewery engineers for a part of the day. The manufacturing plants soon grew large enough to warrant each department retaining the same working force throughout the season. But these permanent divisions, while separating to a certain extent the different trades, did not prevent members of closely associated departments from filling, in an emergency, the places of others workers in the industry who happened to be on strike. The establishment of the national union of United Brewery Workmen was a recognition of these new conditions.

The increasing proportion of unskilled to skilled workmen in many industries is another cause of the formation of industrial unions. With the introduction of machinery less skilled workmen frequently take the place of the more highly skilled. In the mining industry, for instance, with its skilled and unskilled workmen—miners, drivers, runners, oilers, slate pickers, where separate organization for each craft is hopeless, practical results can only be obtained by a single national union including the skilled and unskilled

alike. Likewise, the Longshoremen and Marine and Transport Workers have extended their boundaries to include lumber loaders, unloaders and pilers, mill-men and all men employed in lumber yards, coal shovelers, loaders and unloaders, limestone loaders and unloaders.

In describing the various forms of labor federations, the trade union has been taken as the typical form of labor organization and only variations from that form in general have been described. For example, several industrial unions maintain extensive systems of insurance; but in the development of the systems, the lines laid down by ordinary trade unions have been closely followed. No description of these systems has therefore been given. The essay is not intended as a comprehensive description of labor federations, but as an analysis of their distinctive characteristics.

PART I.

GENERAL LABOR FEDERATIONS.

CHAPTER I.

HISTORY.

Prior to the Civil War national trade unions in the United States multiplied without corresponding success in the formation of enduring alliances. Labor federations, in so far as they existed, were local in character. Thus the General Trade Union of the City of New York, active in the labor field as early as 1833, was a federation composed of twenty-one trade societies of that city.¹ The General Trade Union of Boston was organized in 1834 upon the same general lines as the New York Federation, and a constitution adopted at the convention was later ratified by the sixteen local unions in the federation.² Similar unions were formed in other large cities, notably in Baltimore and Philadelphia.

The industrial congress of the United States which met in New York on October 12, 1845, represented a nearer approach to a national federation of labor. The convention, called together mainly through the efforts of the New England Workingmen's League and the National Reform Association of New York, elected officers and adopted a declaration of principles.³ The second Industrial Congress met in New York on June 10, 1847, and included representa-

¹ Ely, *The Labor Movement in America*, 1890, pp. 43-44.

² Burke, *Central Labor Unions*, in *Columbia University Studies*, Vol. XII, pp. 28-30.

³ McNeill, *The Labor Movement: The Problem of To-day*, 1887, p. 104.

tives from the states of New York, Massachusetts, Pennsylvania, Delaware, Illinois, and Kentucky.⁴

Little was attempted and less achieved in labor federation on a national scale between 1850 and 1864; but as soon as the Civil War had closed, interest in this direction rapidly developed.⁵ The twelfth annual session of the Typographical Union in 1864 adopted a resolution instructing the delegates present to recommend to the local unions of their cities and towns the formation of central trade unions "for the mutual protection and support of the working men of all trades."⁶ In the following year, the president of the Bricklayers' Association recommended that its executive officers be given power to act in concert with all other labor organizations of the country to assist in establishing the eight-hour day.⁷ About the same time, a group of twelve men, acting independently of the trade unions to which they belonged, met in Louisville to discuss plans in furtherance of the labor movement, and issued a call for a general convention to be held in Baltimore the following year.⁸

On the twenty-sixth of March, 1866, the presidents of various trade unions met in New York City and decided to hold a national convention in Baltimore in August of that year.⁹ This was supplemented a little later by a call addressed to the workingmen of the United States and signed by William Harding, John Reid and John H. Fay in the interest of the eight-hour working day. All trade unions were invited to participate in the convention, with representation upon the basis of two delegates for each trades assembly and one for every local organization.¹⁰

On August 20th, the National Labor Union, the name given to the new organization, met in Front Street Theatre,

⁴ *Ibid.*, p. 109.

⁵ Burke, *op. cit.*, pp. 32-40.

⁶ Proceedings of the Twelfth Session, 1864, p. 60.

⁷ Proceedings of the Philadelphia and Baltimore Association of Bricklayers, 1865.

⁸ Powderly, *Thirty Years of Labor*, 1890, pp. 62-64.

⁹ The International Journal, Vol. I, No. 1, April, 1866, p. 19.

¹⁰ *Ibid.*, July, 1866, p. 149.

Baltimore, elected a full set of officers, but adjourned without adopting a formal platform or making any provision for raising revenue.¹¹ The National Labor Union reassembled in 1867 at Chicago and again in 1868 at New York, and displayed considerable vigor in agitating for a national eight-hour law.¹² Other important subjects discussed in the several conventions were: labor leagues, apprenticeship, co-operation, convict labor, public lands, taxation of bonds, national banks, currency and political organization.¹³ Although conventions were held in 1869, 1870 and 1871, the membership steadily dwindled. In 1872 a final effort to revive interest resulted in the nomination of an independent candidate for president of the United States. Active participation in the national campaign of that year created internal dissensions which hastened the downfall of the organization.

Several years prior to the dissolution of the National Labor Union, a demand had arisen for a national federation possessing greater vitality and displaying a greater aggressiveness. At the fifth annual convention of the Bricklayers' National Union held in 1870, a resolution was adopted, instructing the president of the Union "to correspond with all the various national and international unions or assemblies for the purpose of effecting an organization of a national trade union to be composed of delegates from each national union or assembly, whose duty it shall be to choose officers, make laws, etc., for the benefit of all unions or assemblies working under their jurisdiction as represented."¹⁴

¹¹ Ibid., Sept., 1866, pp. 178-182. As one member expressed it: "The delegates built a splendid track and locomotive, supplied the engineer with numerous assistants, and neglected the wood and water to get up steam."

¹² The National Labor Union claimed the credit for the passage of an eight-hour law by Congress in 1868, and this claim received general acceptance among trade unionists; cf. *Cigarmakers' Journal*, Oct. 10, 1881.

¹³ Sixteenth Annual Session, National Typographical Union, 1868, p. 37.

¹⁴ Proceedings, Fifth Annual Convention, Bricklayers' National Union, 1870.

Two years later, in 1872, a circular was addressed to the different unions calling an informal meeting of the presidents of the national labor organizations of America, to be held in Cleveland, Ohio, on November 19, 1872, for the purpose of taking the initial steps towards "the formation of an Industrial Congress of North America to be composed of bona fide representatives of bona fide labor organizations." On July 15, 1873, this convention assembled in Cleveland, elected officers and adopted tentative plans of organization.¹⁵ From a letter written by the president of the Iron Molders' International Union to the president of the International Typographical Union, it appears that many of the thoughtful men in the trade union movement had decided to form a national trade assembly or industrial congress "with the sole proviso that such an association must be entirely free from political influences and composed of delegates from bona fide trade and labor unions."¹⁶ A second session of the Industrial Congress met in Rochester, New York, on April 14, 1874.¹⁷ Owing to the industrial depression of the preceding year, many of the unions had suffered severely and only sixty-three delegates were present. Among the unions represented were the machinists and blacksmiths, the coopers, the shoemakers, the tailors, the cigarmakers, the iron molders, the printers and the miners, together with delegates from the Industrial Brotherhood and the Sovereigns of Industry.¹⁸ A declaration of principles was adopted similar to that drawn up at the Cleveland session, but containing these additional demands: a law to compel corporations to pay their employees once a month; a mechanic's lien law; a law to abolish the contract system on national, state and municipal work; a system of public markets; cheap transportation; and a law to provide for arbitration between employers and employees.

¹⁵ Powderly, *op. cit.*, pp. 108-110.

¹⁶ Proceedings, Twenty-first Annual Session, International Typographical Union, 1873, p. 13.

¹⁷ Iron Molders' Journal, Feb., 1874, p. 278.

¹⁸ Ibid., April, 1874, p. 332.

On the fourth of July, 1876, the Congress proposed to inaugurate an eight-hour day campaign, and in order to make the movement successful urged the closer union of all trade and labor organizations. Where sufficient unions or lodges existed in any one town or county, local industrial councils composed of delegates from each union were to be formed. A state council or assembly in each state or territory constituted the unit of representation in the Industrial Congress. This plan did not meet with popular favor and never attained any importance.¹⁹

In 1877 some activity was displayed by the International Labor Union, with branches in seventeen states, and having for its objects the formation of an amalgamated union of laborers, the organization of all workingmen along trade lines and a general fund for benefit and protective purposes. This organization in common with its predecessors failed, however, to supply the need of the unions for national federation and never attained large membership.²⁰

From this time forth, however, the movement toward general federation assumed more definite shape. Not only the national officials of labor organizations, but the membership as well declared for a closer alliance of all trades.²¹ The following letter, typical of the period, was sent by the president of the Amalgamated Association of Iron and Steel Workers to the president of the Cigarmakers' International Union.

I desire, through you, to call attention of your organization to the subject of "Federation of Trades Unions" which is now engaging the attention of many of our best labor societies.

At the last session of the National Lodge Amalgamated Association of Iron and Steel Workers of the U. S., the subject was considered and the following resolution unanimously adopted:

¹⁹ The Bricklayers' National Union at its convention of 1876 refused to indorse the movement (Proceedings, 1876, pp. 19-21), and the Typographical Union passed a resolution at the session of 1875 disapproving of its subordinate unions taking part in any Industrial Congress (Proceedings, Twenty-third Session, 1875, p. 62).

²⁰ McNeill, *op. cit.*, pp. 161-162.

²¹ For the action of the Cigarmakers, cf. Cigarmakers' Official Journal, June, 1877.

Resolved, That the Delegates of the A. A. of I. and S. W. in convention assembled, at Columbus, O., do instruct our national lodge officers to take the initiatory steps toward forming a federation of trades' unions, that they shall have power to open correspondence with the presiding and executive officers of all trades' unions throughout the U. S. for the purpose of perfecting such arrangements as will speedily place the men of all trades beyond the power of capitalists or monopolies either to starve them into submission or force them to accept less than a "fair day's wages for a fair day's work" . . . Should it meet with your approval, the officers of our Association will be glad to meet your representatives at such time and place as may be selected by mutual arrangement.²³

That permanent federation was in the minds of labor leaders is also indicated by the action of other prominent national unions. Thus the Typographical Union at the annual session of 1878 decided to enter into correspondence with other unions, to arrange for a conference with their national officials, and to report the result to the next convention.²³ Again in 1879 the corresponding secretary of the Typographical Union was instructed to open correspondence with the different unions for the purpose of forming an international amalgamated union.²⁴ A further step was taken in the convention of 1880, when an invitation was extended to all national and international trade unions to send delegates to a "Continental Federation of Trades," which should hold annual meetings at such time and place as might be selected by the federation.²⁵ Most of the organizations thus addressed took no action on the communication, and further effort was for the time abandoned. The president of the Typographical Union declared in his report to the session of 1881: "The subject is of such importance that we can afford to suffer in patience numerous failures if as an ultimate result the mechanics of the United States and Canada can be brought into a closer and common organization for the common good."²⁶

²³ Cigarmakers' Journal, June 10, 1878.

²⁴ Proceedings, Twenty-sixth Annual Session, 1878, pp. 31-34.

²⁵ Proceedings, Twenty-seventh Annual Session, 1879, pp. 31-39.

²⁶ Proceedings, Twenty-eighth Annual Session, 1880, p. 64.

²⁷ Proceedings, 1881, pp. 12-13, 25; also Cigarmakers' Journal, October 10, 1880.

Meanwhile an entirely distinct movement toward labor amalgamation had developed. As early as 1861, Uriah S. Stephens, then a garment cutter in Philadelphia, wrote to a friend in New York City: "I speak to you of unions as they now exist. To be candid with you, I will say I have little or no faith in their power to raise the toiler to the position he should occupy. They are too narrow and too circumscribed in their field of operations. I do not claim to be gifted with the power of prophecy, but I can see ahead of me an organization that will cover the globe. It will include men and women of every craft, creed and color. . . . Its groundwork will be secrecy, its rule obedience, and its guiding star mutual assistance." In the spring of 1869 this garment cutter, a member of a Philadelphia trade union started to put his ideas into practice by interesting his associates in a new movement. On December 9, 1869, the Garment Cutters' Union of Philadelphia disbanded and divided the funds in the treasury among the members in good standing. At the close of the last meeting of the union, a secret society was organized by Stephens and a few of his associates under the title of Garment Cutters' Assembly of the Knights of Labor.

Early efforts to increase the membership did not meet with much success in consequence of the secrecy maintained. The first annual report in 1871 showed only sixty-nine members in good standing.²⁷ Soon after the formation of Local Assembly No. 1, the ship carpenters and calkers organized and entered the Order as Local Assembly No. 2. Thenceforth, the growth of the Knights of Labor became more rapid, and by 1875 fifty-two locals had been formed in Philadelphia, and about two hundred and fifty in other places.²⁸

A demand soon arose for a central organization of the local unions in Philadelphia and the environs. On Christmas Day, 1873, District Assembly No. 1, consisting of rep-

²⁷ Historical Sketch of the Knights of Labor, by Carroll D. Wright, in *Quarterly Journal of Economics*, January, 1887, p. 145.

²⁸ *Ibid.*, p. 146.

representatives from the local assemblies, was organized in Philadelphia. This plan proving successful, other district assemblies were formed wherever the number of local assemblies justified a federation.⁸⁹ Finally, on July 3, 1876, in response to a call sent out by District Assembly No. 1, delegates from the several locals met in Philadelphia, adopted a constitution and selected for the national organization the name of National League of North America. A year later, on August 2, 1877, a circular from District Assembly No. 1, was sent to all officers and members of the Knights of Labor notifying them of a convention to be held in Reading, Pennsylvania, on January 1, 1878,⁹⁰ for the purpose of forming a "general assembly," and establishing a central resistance fund, a bureau of statistics and a system of revenue to aid in the work of organization. In response to the call thirty-two delegates assembled, including nine miners, four shoemakers, four machinists, two glass blowers, one molder, one engineer, one printer, one steam-boiler maker, one nail packer, one carpenter, one cooper, one garment cutter, one blacksmith, one teacher, one glass worker, and two locomotive engineers.⁹¹ A permanent organization with strongly centralized control was formed under the title of the "General Assembly of the Knights of Labor of North America."⁹²

The preamble to the constitution adopted at Reading, 1878, bore a close resemblance to the one used by the Industrial Brotherhood of 1874. It set forth the objects of the new organization as follows: "To bring within the folds of organization every department of productive industry, making knowledge a standpoint for action, and industrial, moral worth, not wealth, the true standard of industrial and national greatness; to secure to the toilers a proper share of the wealth they create." Among the specific aims

⁸⁹ Powderly, *op. cit.*, p. 187, et seq.

⁹⁰ Proceedings, General Assembly, Knights of Labor, 1878, p. 3. For full text of the circular see Powderly, *op. cit.*, p. 238.

⁹¹ Proceedings, General Assembly, Knights of Labor, 1878, p. 26.

⁹² *Ibid.*, pp. 29-38.

proposed were: The establishment of bureaus of labor statistics; the formation of coöperative institutions, productive and distributive; the reservation of public lands for actual settlers; the abrogation of all laws bearing unequally on labor and capital; the enactment of laws to compel corporations to pay a weekly wage; the passage of mechanics' lien laws; the abolition of the contract system on national, state, and municipal works; the adoption of arbitration in labor disputes; the prohibition of the labor of children under fourteen years of age in workshops, mines and factories; the abolition of contract prison labor; the securing of equal pay for men and women; the introduction of the eight-hour day, and the issuing of a national circulating medium, without the intervention of banks, to be legal tender in payment of debts.²³

In the next three years, from 1879 to 1881, the Knights of Labor held conventions and displayed considerable vigor in organizing new locals. But, although in full accord with the ideals of the general labor movement, the new organization developed along lines unmistakably opposed to the traditional principle of trade unionism, viz., trade autonomy, and to that extent failed to satisfy the advocates of a national federation of trades. It disregarded trade boundaries in a large measure, and placed in the hands of the General Assembly "full and final jurisdiction" in all matters pertaining to the local and district assemblies.²⁴ The district assembly in turn possessed power within its district to "decide appeals and settle controversies within or between local assemblies."²⁵

Partly as a reaction against this highly centralized form of government, and partly to carry out the original idea of a national federation of autonomous trade unions, prominent labor leaders in 1881 arranged for a general conference of representatives of the different unions. The National

²³ Constitution, General Assembly, 1878. Preamble.

²⁴ *Ibid.*, Art. 1, sec. 2.

²⁵ Constitution, District Assemblies, 1878, Art. 1, sec. 2.

Labor Amalgamated Union, the name adopted by this conference, convened in Terre Haute, August 2, 1881, but did little more than prepare a call for a subsequent convention to be held in Pittsburg.⁶⁶

In response to this call, delegates from trade and labor organizations met at Pittsburg on November 15, 1881, and formed the Federation of Organized Trades and Labor Unions with John Jarrett, president of the Amalgamated Association of Iron and Steel Workers, as temporary chairman. The platform of the Federation set forth the objects of the organization as follows: The passage of laws in state legislatures and in Congress for the incorporation of trade unions and similar labor organizations; the compulsory education of children; the prohibition of children under fourteen from working; the enactment of apprentice laws; the passage of an effective national eight-hour law; the restriction of the 'order' or 'truck' system; the passage of a mechanic's lien law; the repeal of all conspiracy laws directed against organized labor; the establishment of bureaus of labor statistics; the protection of American industry; the exclusion of foreign laborers under contract; and the proper representation of all trade and labor organizations in law making bodies.⁶⁷

For several years after 1881 the history of the general federation movement in the United States centers largely in the struggle between the Knights of Labor and the Federation of Trades and Labor Unions. As each organization grew stronger, an aggressive rivalry developed. The communication issued by the Federation to the national trade unions indicates that some antagonism was present from the beginning: "Open trade unions national and international, can and ought to work side by side with the Knights of Labor, and this would be the case were it not for men either over-zealous or ambitious, who busy themselves in

⁶⁶ Cigarmakers' Official Journal, Oct. 10, 1881.

⁶⁷ Proceedings, First Annual Session Federation of Organized Trades and Labor Unions, 1881, pp. 3-4.

attempting the destruction of existing unions to serve their own whims."³⁸ *The Cigarmakers' Journal* referred to the federation movement of 1881-1882 as in a "chaotic state, pulled and dragged in all directions," and advised against "all inferior systems of organization."³⁹ On the other hand, the president of the International Typographical Union recommended in his annual report that steps be taken to bring about a better understanding with the Knights of Labor. "We cannot afford to be anything else but friends," he declared, "we are aiming at the same object, and we should court the good will of the Knights of Labor, as they are a power in our time of need,—ever ready to extend a helping hand."⁴⁰

The year 1886 marks an important period in labor federation history. Not only did the Knights of Labor then reach their greatest numerical strength, but the movement towards the national federation of trades gained new vigor from the transformation of the Federation of Trades and Labor Unions into the American Federation of Labor. The Federation of Trades and Labor Unions failed to satisfy the more energetic and ambitious labor leaders, who were desirous of reaching some agreement with the Knights of Labor whereby the friction between that organization and the trade unions should be removed. In response to a call issued by P. J. McGuire, general secretary of the Brotherhood of Carpenters and Joiners; A. Strasser, president of the Cigarmakers' Union; P. J. Fitzpatrick, president of the Iron Molders' International Union; Josiah Deyer, secretary of the Granite Cutters' International Union, and W. H. Foster, secretary of the Federation of Trades and Labor Unions, a trade-union conference met in Philadelphia on May 17, 1886. After the election of officers, the representative of each national union related the grievances of his particular organization against

³⁸ McGuire, *The American Federation of Labor: Its History and Aims*, p. 4.

³⁹ *Cigarmakers' Official Journal*, Nov., 1882, p. 5.

⁴⁰ *Proceedings, Thirty-second Annual Session International Typographical Union*, 1884, p. 12.

the Knights of Labor. The charges in general were: aiding unfair employers in their fight against the unions, the initiation of "scabs" into the order, working below the union scale and ignoring the hours of labor set by the unions.⁴¹ As a result of this conference, certain proposals were agreed upon to be submitted to the special session of the General Assembly soon to be held at Cleveland, Ohio. As this "treaty" was the basis of subsequent proposals and explains clearly the position taken at that time by the trade unions, and thereafter by the American Federation throughout its controversy with the Knights of Labor, it is appended in full:

1. That in any branch of labor having a national or international organization, the Knights of Labor shall not initiate any person or form any assembly of persons following said organized craft or calling without the consent of the national or international union affected.

2. That no person shall be admitted to the Knights of Labor who works for less than the regular scale of wages fixed by the union of his craft; and that none shall be admitted to membership in the Knights of Labor who has ever been convicted of scabbing, ratting, embezzlement, or any other offense against the union of his trade or calling, until exonerated by the same.

3. The charter of any Knights of Labor assembly of any trade having a national or international union shall be revoked, and the members of the same be requested to join a mixed assembly or form a local union under the jurisdiction of their respective national or international trade union.

4. That any organizer of the Knights of Labor who endeavors to induce trade unions to disband or tampers with their growth or privileges shall have his commission forthwith revoked.

5. That wherever a strike or lockout of any trade union is in progress, no assembly or district assembly of the Knights of Labor shall interfere until settled to the satisfaction of the trade unions affected.

6. That the Knights of Labor shall not establish nor issue any trade mark or label in competition with any trade mark or label now issued, or that may hereafter be issued, by any national or international trade union.⁴²

⁴¹ *Cigarmakers' Journal*, June, 1886, p. 7.

⁴² *Ibid.*

Contrary to the wishes of the trade unionists, no definite action on the "treaty" was taken at the Cleveland meeting of the General Assembly. Later in the year a further effort to arrive at a permanent understanding with the Knights was made. Among other grievances, it was claimed that during a lockout by manufacturers in New York City early in 1886, in consequence of a strike against reduction of wages, certain cigar factories involved had been organized by the Knights of Labor. Similar acts of hostility, the Cigarmakers' Union asserted, had been committed at Milwaukee and Syracuse.⁴³ The general executive board of the Knights promised to investigate the charges as soon as opportunity offered, and to revoke the charter of the offending assembly if the statements proved correct.⁴⁴ Notwithstanding this action, the Cigarmakers' Union ordered a boycott against all cigars bearing the label of the Knights and endeavored to discredit the Order.⁴⁵

When the General Assembly of the Knights of Labor assembled at Richmond, in October, 1886, the Cigarmakers' officials offered a further protest against the attitude of the Knights and asked for some assurance that the trade unions thereafter would not be interfered with by the organizers of the Order.⁴⁶ The response of the General Assembly was to adopt a resolution compelling all employees in the cigar trade who were members of both the Knights of

⁴³ Proceedings, General Assembly, Knights of Labor, Special Session, 1886, pp. 30, 50. In a letter to the General Master Workman of the Knights dated March 6, 1886, the president of the Cigarmakers' International Union said: "I consider the action of your organizers in New York City a bold and unscrupulous attack upon recognized trade union principles, and hostile to the Cigarmakers' International Union in particular."

⁴⁴ The great strike of 1886 on the Missouri Pacific System was then in progress.

⁴⁵ Proceedings, General Assembly, 1886, pp. 137-138.

⁴⁶ The General Master Workman in his address to the Tenth Regular Session of the General Assembly held at Richmond, 1886, partly admitted the claim of the trade unions, but declared that the trouble had been greatly magnified and distorted. He recommended that any trade union having a grievance against the Order should submit the matter, through its president, to the General Master Workman and the executive board of the Order.

Labor and the Cigarmakers' International Union to withdraw from the Union or leave the Knights,⁴⁷ and adjourned without making further advances towards a peaceful settlement of the difficulties.

Throughout this controversy between the Knights and the Cigarmakers, the Federation of Trades had exerted its influence steadily in favor of the latter. Accordingly, when the representatives of various trade unions arranged to meet in Columbus, Ohio, the first week in December, 1886, the legislative committee of the Federation decided to hold its annual convention at the same time and place for the purpose of coöperating with the conference of trade union officials.

The two conventions met on December 7 and 8, respectively, and the members of the Federation of Trades attended the sessions of the trade union conference in a body. On the third day of the conference, the committee of the whole reported to the Federation that its committee had attended the conference and that all the delegates had been admitted as members thereof. The legislative committee also reported that the trade union conference had formed a new organization known as the American Federation of Labor with a constitution designed to protect the interests of trade unions. It was agreed that all moneys, papers, and effects of the old Federation should be turned over to the officers of the new organization and that all per capita tax due the old Federation should be collected by the new Federation.⁴⁸

From this time forth, the Knights of Labor steadily declined in membership and power, while the American Federation advanced with rapid strides. At the present time the Knights play an inconsiderable part in the labor movement, and the American Federation is gaining steadily in influence.⁴⁹

⁴⁷ Proceedings, General Assembly, 1886, pp. 200, 282.

⁴⁸ Proceedings, Sixth Annual Session, Federation of Organized Trades and Labor Unions, 1886.

⁴⁹ In accordance with a resolution adopted by the General Assembly in 1893, the general officers of the Knights of Labor invited

In 1896 the Western Federation of Miners, at that time affiliated with the American Federation of Labor, had a protracted strike at Leadville, Colorado, which taxed the financial resources of the union to the utmost.⁶⁰ When the annual convention of the American Federation met at Cincinnati in December, the delegates of the Western Federation appealed to the membership for aid. The report of the executive council subsequently adopted by the Convention declared: "We hereby, and to the utmost of our ability, tender them, the Western Federation of Miners, the support of the American Federation of Labor and call upon the national and local unions herein affiliated, as well as our central bodies, to extend to them our moral and financial support."⁶¹ Little further assistance seems to have been given, for the officials of the Western Federation later asserted that the financial contributions were scarcely sufficient to cover the cost of canvassing for them.⁶² Largely on account of this lack of support from eastern unions, the Western Federation of Miners withdrew from the American Federation of Labor and laid plans for an independent federation to comprise all western unions. In response to a call sent to the labor unions of the Rocky Mountain states and territories, a convention including representatives from various unions met at Salt Lake City in May, 1898, and formed the Western Labor Union.

Progress during the first two years was slow. The small per capita tax imposed on the membership was insufficient

representatives from national labor organizations to meet and discuss plans for bringing the different unions into closer touch with each other. The conference met on June 11, 1894, in St. Louis, with the following organizations represented: Locomotive Engineers, Locomotive Firemen, Railway Trainmen, Railway Conductors, Green Glass-bottle Blowers' Association, Farmers' Alliance, American Railway Union, American Federation of Labor and the Knights of Labor. Plans were agreed upon for future conferences but they were never carried out; see *Journal of the Knights of Labor*, June 14, 1894.

⁶⁰ See below, p. 122.

⁶¹ *Proceedings, American Federation of Labor*, 1896, pp. 62-63.

⁶² *American Labor Union Journal*, Nov. 20, 1902.

to carry on extensive organizing, and at the end of that period the total number of charters in force was only ninety-five.⁵³ At the convention of 1900 the federation in voting to admit three locals of shoe workers in Massachusetts, departed from the original idea of a western organization and thereafter admitted a number of locals located in the east and central west. In May and June, 1901, the annual convention raised the per capita tax from seven cents to ten cents per month, and ordered three cents of this amount to be set aside and used exclusively for organizing purposes.⁵⁴ Up to the convention of 1903 this special fund had never been sufficient to meet the expenses of organizing, and additional amounts were appropriated from the general fund. The secretary-treasurer reported to the sixth annual convention a membership of nearly 100,000, comprising 276 unions in twenty-four states, territories and provinces.⁵⁵

In 1902 the fifth annual convention changed the name of the federation from the Western Labor Union to the American Labor Union, with jurisdiction extending over North America. At the same time resolutions were adopted favoring socialism and committing the federation to a definite policy of political activity.⁵⁶ The resolutions then adopted were as follows:

WHEREAS the time has come for undivided, independent working class political action; therefore be it

Resolved, That the representatives of the American Labor Union do hereby declare in favor of International Socialism, and adopt the platform of the Socialist party of America in its entirety as the political platform and program of said organization.

Resolved, That we earnestly appeal to all members of the American Labor Union and to the working classes in general to be governed by the provisions of this resolution.

⁵³ Proceedings, Third Annual Convention, Western Labor Union, 1900, p. 46.

⁵⁴ Proceedings, Fourth Annual Convention, Western Labor Union, 1901, p. 66.

⁵⁵ Proceedings, Sixth Annual Convention, American Labor Union, 1903, p. 23; American Labor Union Journal, Sept. 3, 1903.

⁵⁶ Out of a total vote of 69, only 13 voted against the resolution.

PLATFORM OF SOCIALIST PARTY OF AMERICA.

1. The collective ownership of all means of transportation and communication and all other public utilities, as well as of all industries controlled by monopolies, trusts and combines. No part of the revenue of such industries to be applied to the reduction of taxes on the property of the capitalist class, but to be applied wholly to the increase of wages and shortening the hours of labor of the employed to the improvement of the service and diminishing the rates to the consumers.

2. The progressive reduction of the hours of labor and the increase of wages in order to decrease the share of the capitalist and increase the share of the worker in the product of labor.

3. State or national insurance of working people in case of accidents, lack of employment, sickness and want in old age; the funds for this purpose to be furnished by the government and to be administered under the control of the working class.

4. The inauguration of a system of public industries, public credit to be used for that purpose in order that the workers be secured the full product of their labor.

5. The education of all children up to the age of eighteen years, and state and municipal aid for books, clothing and food.

6. Equal civil and political rights for men and women.

7. The initiative and referendum, proportional representation and the right of recall of representatives by their constituents.

But in advocating these measures as steps in the overthrow of capitalism and the establishment of the coöperative commonwealth, we warn the working class against the so-called public ownership movement as an attempt of the capitalist class to secure governmental control of public utilities for the purpose of obtaining greater security in the exploitation of other industries and not for the amelioration of the conditions of the working class.⁵⁷

In the following year (1903) this political declaration was reaffirmed, and a constitution embodying entirely new features was framed.⁵⁸ In December, 1903, the revised constitution was adopted by referendum vote, and the federation entered upon a new era. At the present time

⁵⁷ Constitution, American Labor Union, Preamble, 1903, pp. 4-6, and Proceedings, Fifth Annual Convention, 1902, pp. 58-59, 61.

⁵⁸ Proceedings, Sixth Annual Convention, American Labor Union, 1903, pp. 92-93.

(March, 1905), in addition to the local unions and state federations, four national unions hold charters from the American Labor Union, viz., the Western Federation of Miners, the United Brotherhood of Railway Employees, the Amalgamated Society of Engineers, and the International Musical Union.⁵⁹

⁵⁹ Voice of Labor, March, 1905.

CHAPTER II.

STRUCTURE.

There are thus at the present time in America three general federations organized on a national scale, the origin and growth of each of which have been described in the preceding chapter: The Knights of Labor, the American Federation of Labor and the American Labor Union. Each bears a certain likeness to the other two, and at the same time has certain distinct characteristics. In structure the distinguishing feature is the extent of the power granted by the constituent bodies to the federal government. The Knights of Labor vest the General Assembly with all power not expressly granted to the subordinate branches. The American Federation is a government of delegated powers, and the national unions comprising the Federation are independent. Finally, the American Labor Union, while less highly centralized than the Knights of Labor, possesses more power over the constituent locals and nationals than the American Federation of Labor.

The primary division in the organization of labor recognized by all three federations is the local union, in which questions of policy are decided by majority vote of all members present. The local unions are alike in this one respect: they represent a democratic form of government in which each member has theoretically an equal voice. In important particulars, however, local unions of the three federations differ greatly.

The original assembly of the Knights of Labor was, as we have seen, a small group of garment cutters who organized at Philadelphia in 1869. On October 20, 1870, the first person not a garment cutter was initiated into the Order, and thereafter men known as "sojourners" on account of

their temporary membership in the parent local were enlisted in the work of organization. As soon as a sufficient number belonging to any one craft had entered the Order, a local assembly of that trade was formed under supervision of a sojourner, who transferred his membership from Local Assembly No. 1 to the new local. Although the original design did not include the presence of miscellaneous trades in one local assembly, succeeding events suggested this form as the most useful one, and thenceforth the ideal unit in the organization of labor advocated by the Knights became the mixed assembly, having as its primary concern the interests of all productive workers, instead of the particular interests of a craft.¹

The American Federation of Labor, upholding the principle of trade autonomy, does not favor the mixed assembly. Instead, emphasis has been placed on the local trade union composed of members following a single vocation, and attached to a national trade union. Where the local union is not affiliated with a national organization, it receives a charter directly from the American Federation, and is known, for instance, as Ship Carpenters' Union, No. 6976, American Federation of Labor. On the other hand, the organizers of the Federation often find it necessary to form into one local union workers of miscellaneous crafts. Hence, "federal labor unions" exist only where trade unions are impracticable. As soon as a sufficient number of a craft is admitted, a new local trade union recruited from the membership of the mixed union is formed. This trade local in turn joins the national union of its craft when possible. According to the report for January, 1905, there are 1,181 local trade and federal labor unions directly affiliated with the national federation.

¹ The Knights of Labor formed many trade locals where conditions were not favorable to the mixed assembly; but according to a decision of the General Master Workman (September, 1882), the mixed assembly could not compel a member belonging to a trade local to withdraw from his assembly and join a mixed local.

Local unions of the American Labor Union are of two classes: (a) local industrial unions admitting to membership all eligible persons engaged in a particular industry in a locality, provided no national or international union having jurisdiction over that particular industry is chartered by the American Labor Union; (b) local federal unions admitting to membership all eligible persons in a locality irrespective of industry or industries in which employed, not united with a national or international union having jurisdiction, or a local industrial union in that locality.² The unit of organization approved by the American Labor Union is, therefore, not the trade union as in the American Federation, or the mixed assembly as in the Knights, but an intermediate form—the industrial union—embracing all employees in an industry.

The local assembly of the Knights derives all authority from a centralized national government, whereas the local trade union and the local industrial union are primarily members of autonomous national unions independent of the national federation.

Each of the three general federations attempts, as a prime object, to federate the local unions in each locality. Such local federations are much alike under all the general federations. The pure democracy of the local union is here abandoned and a representative form of government appears. Delegates are sent to a common meeting-place to discuss and legislate upon questions of common interest to the several locals.

In the Knights of Labor the local federation is called the "district assembly," and is composed of "duly accredited delegates from at least five local assemblies." Each local assembly attached to a district assembly is entitled to send "at least one delegate to the district assembly" and any further representation is settled by the district assembly to suit its interests. Any member may be elected a delegate

² See post, p. 127.

if he has been in good standing for at least six months and has attended the local meetings regularly.³

The local federations in the American Federation and the American Labor Union corresponding to the district assembly are "local federations" or "central labor unions" in the former, and "district and city unions" in the latter. These local federations aim to embrace all local unions in a given area and at the same time to maintain the strict autonomy of each trade or industry. Representation, membership, etc., are left by the national federations to local action. The American Federation does provide, however, that "no central body affiliated with the American Federation shall reject credentials presented by a duly elected or appointed delegation of a local union, chartered by a national or an international union having affiliation with the American Federation of Labor."⁴

Sometimes, equal representation in the local federation prevails, as in the Central Trades and Labor Council of New Orleans, Louisiana, where each white labor organization of the city is entitled to not more than three delegates.⁵ At other times proportional representation is adopted. A typical example of the latter system is afforded by the Chicago Federation of Labor. From each union of one hundred members or less two delegates are sent to the local federation, and "for each additional hundred members or majority fraction thereof, one additional delegate."⁶ Following the precedent set by the American Federation,

³ Constitution, District Assemblies, Knights of Labor, 1884, pp. 1-2. The same provisions appear in the later constitutions.

⁴ Constitution, American Federation of Labor, 1902, Art. XII, sec. 8. The above resolution was adopted at the annual convention in 1902 (Proceedings, p. 215), and was prompted by the arbitrary attitude of certain local federations toward local unions. The Chicago Federation of Labor expelled Typographical Union No. 16 in 1901, and refused to rescind its action until the latter part of 1902, notwithstanding the efforts of the American Federation of Labor in behalf of the local union.

⁵ Constitution, Central Trades and Labor Council of New Orleans, 1901, Art. I, sec. 1.

⁶ Constitution, Chicago Federation of Labor, 1902, sec. 3.

the Chicago Federation excludes from membership any employer or contractor of labor.

The chief difference between the district assembly on the one hand, and the central labor union or the city or district union on the other, lies in the power exercised. The district assembly of the Knights, while subordinate to the General Assembly, has full jurisdiction and is "the highest tribunal of the Order" in its limited field. It decides all appeals, settles all disputes between locals, and may assess the assemblies for its maintenance.⁷ The local federation of the American Federation and the city and district unions of the American Labor Union are more independent and at the same time much weaker in authority than the district assembly. This independence is due to the voluntary nature of the association, while the weakness arises from the autonomy exercised by each union in the local federation.

Next in gradation to the local federation is the state federation of representatives from the various labor organizations in the state. The first charter for a state assembly in the Knights of Labor was granted in 1885 under the following clauses of the constitution: "A state assembly shall be composed of duly accredited delegates from at least ten local assemblies" (sec. 1); "A state assembly shall have power to levy taxes or assessments for its maintenance upon all locals composing the state assembly and provide for such legislation as may be deemed necessary for the good of the Order" (sec. 2).⁸ State assemblies in the Knights of Labor, however, failed to attain the results anticipated, and in 1897 at the twenty-first annual session of the General

⁷ Later this law was amended so that the district assembly became subordinate to a state or national trade assembly, whenever the general laws of the Order so provided. Constitution, District Assemblies, Art. 1, sec. 2.

⁸ At the convention of 1886, five state assemblies were reported, and in 1888 the number had reached twenty-two, including one in Belgium. The charters of all state assemblies working with less than the constitutional number of local assemblies were revoked in 1897. This left but three state assemblies, those of Colorado, Arkansas and Michigan.

Assembly, the general executive board declared that "district organizations although smaller are more compact and less expensive." In the American Federation and in the American Labor Union, state federations comprising trade unions and central bodies within their respective jurisdictions, seek to exercise functions analogous to those carried on by the national federations in their larger fields of activity.⁹

As a fourth form of organization, all three of the general federations recognize the national union of workmen engaged either in a single trade or industry. The Knights of Labor and the American Federation have recognized trade lines in the national trade assembly and the national trade union respectively, while the American Labor Union, as has been said, has declared itself in favor of the national industrial union.

The national trade assembly of the Knights of Labor has had a history interesting enough to warrant special consideration. In May, 1880, there existed 868 local assemblies and thirty-one district assemblies distributed over fourteen states. In 1881 the number of local assemblies had reached 1681, while the district assemblies had fallen to twenty-six, with a total membership of about 20,000. The year 1884, when the membership had passed the 60,000 mark, witnessed a change in the structure of numerous assemblies. A reaction toward the old form of organization by trades made necessary the recognition of national trade assemblies as an important subdivision.¹⁰ At this juncture the cherished principle of the unity of all labor interests was subjected to a severe test. Mixed assemblies were found too extensive in their sympathies, and the natural desire for meetings where members of one craft could discuss trade questions asserted itself. Furthermore, the organization of industrial

⁹ In a few states, the state federations of the American Federation are strong at the present time. Altogether the number of state federations in 1904 was 32.

¹⁰ Constitution, Knights of Labor, 1884, Art. XII, secs. 1 and 2.

forces on a national scale made more pressing the need for national labor organizations along trade lines. As an immediate result, "national trade assemblies" very similar to national trade unions emerged.

Under the law enacted at the national convention of 1882 there were two methods by which any craft within the Knights of Labor could organize as a trade assembly of the Order, and gain the advantage of autonomy over trade affairs while retaining a close association with other branches of organized labor. The first method was by virtue of an amendment to the constitution which permitted five or more trade locals to petition the executive board to call a convention for the purpose of forming a trade district.¹¹ The second method was used where trades were organized in several local assemblies in a community. These assemblies could form a council composed of three delegates from each local assembly, to which all trade matters were referred independently of the district assembly to which the respective local assemblies were attached. Carrying this formation a step farther, the law provided for national trade councils.¹²

By these devices trade locals in all parts of the United States and Canada might continue in their respective district assemblies and yet obtain the additional advantage of having their trade problems considered by their own craft. Finally, as stated above, the constitution of 1884 specifically authorized the formation of national trade assemblies with power to enact a separate code of laws subject to the approval of the general executive board. Before a convention could be held for the purpose of forming a national assembly, three months' notice must be given to each local assembly of the trade. Even thereafter membership in the new trade district was purely voluntary on the part of the local assemblies.¹³

¹¹ Proceedings, General Assembly, 1882, p. 364.

¹² Ibid., p. 368.

¹³ A typical announcement appeared in the official journal for January, 1887: "At a regular meeting of local assembly 2124 K. of L., ship carpenters and caulkers held on Feb. 16, 1887, it was re-

Under the law of 1884 the national trade assembly came to resemble in form the national trade union, but to differ from it in the exercise of power. The trade assembly of the Knights, coming into existence some years later than the General Assembly, became coördinate in large measure with the district assembly, and was entirely subordinate to the General Assembly. The national trade union, on the other hand, preceded by many years the American Federation of Labor and developed independently of other forms of labor organizations. When the Federation of Organized Trades and Labor Unions was formed in 1881, the national trade unions retained their independence in all trade matters. The form of labor organization corresponding to the national trade assembly of the Knights and the national trade union of the American Federation recognized by the American Labor Union is the national industrial union. The constitution provides: "National and international unions chartered by the American Labor Union shall be formed on the industrial union plan and shall admit to membership all eligible persons engaged in one industry irrespective of the number of trades or crafts required in the operation of such industry."¹⁴

Having reviewed in turn the several less extensive forms of labor organization recognized by general federations, viz., the local union, the local federation, the state federa-

solved in conformity with Art. 12 of the Constitution that a convention be held in Philadelphia, June 1, 1887, for the purpose of forming a national assembly of those engaged in the ship building trades. The basis of representation in said convention shall be: 1st, Every assembly shall be entitled to one delegate irrespective of the number of members; 2d, every assembly having a membership of 150 and less than 250 shall be entitled to two delegates, and over 250 and less than 300, three delegates and so on." Among other trades issuing similar announcements were the iron molders, bookbinders, bakers and confectioners, carriage and wagon workers, longshoremen and dock laborers, textile workers, carpenters and joiners, saw-smiths, silk workers, furniture workers, painters, paper-hangers and decorators, etc. In July, 1887, with a membership of 511,351, there were 22 national trade districts.

¹⁴ See post, pp. 117 et seq.

tion, and finally, the national trade union, we may now properly consider the structure of the final type, viz., the national general federation.¹⁵

Structurally, the most important feature of the national general federation is the representative convention, held at regular intervals. The question of proper representation has been, as in all federations, a vexed one. Large unions or assemblies naturally demand representation in proportion to membership. Where the claim is allowed, there is constant danger that the unions with greatest numerical strength in the federation may use this power to ignore or over-ride the interests of smaller unions. Each of the national general federations has had to face this problem.

The constitution of the Knights of Labor provides: "Each District Assembly shall be entitled to one representative for the first one thousand members or less and one for each additional one thousand members or majority fraction thereof. Locals attached to the General Assembly shall be entitled to representation in the General Assembly as follows: One representative for the first one thousand members and one for each additional one thousand members, or majority fraction thereof."¹⁶ Owing to the peculiar nature of the organization, the difficulty inherent in proportional representation is removed, inasmuch as the district assembly embraces all classes of workers.

The constitution of the American Federation provides: "The basis of representation in the convention shall be:

¹⁵ In order of formation labor organizations in the United States may be arranged in the following order, (a) local unions, (b) local federations, (c) national trade unions, (d) national federations, (e) state federations.

¹⁶ As the membership increased, the convention grew larger and larger until in 1886, 658 delegates were present. This number proved unwieldy, and the old ratio had to be abandoned for a higher one of one representative for every three thousand members or majority fraction thereof. As a result of this change the convention held the following year consisted of 188 members only. When the membership subsequently declined, the old ratio was restored; see Constitution, General Assembly, Knights of Labor, 1901, Art. II, sec. 3.

From national and international unions, for less than four thousand members, one delegate; four thousand or more, two delegates; eight thousand or more, three delegates; sixteen thousand or more, four delegates and so on. From central bodies, state federations, federal labor unions and local unions having no national or international union, one delegate."¹⁷ In this scheme of representation, a compromise has been sought between equal representation and proportional representation. Proportional representation seemed to give an unfair advantage to the large unions, and, on the other hand, equal representation placed undue power in the hands of the smaller unions. A system has, therefore, been adopted by which a part of the membership is represented according to a progressive ratio, and the other part—many of whom are also represented through their respective national and international unions—by one delegate from each organization.

Strict adherence to this progressive basis, as applied by the American Federation, however, succeeds in keeping the number of delegates within proper limits rather than in giving each union a moderate weight in legislation. The following law, adopted in 1887, neutralizes any restraint placed on the strong unions by progressive representation: "Questions may be decided by division or a show of hands, but if a call of the roll is demanded by one-tenth of the delegates present, each delegate shall cast one vote for every one hundred members, or major fraction thereof, he represents, but no city or state federation shall be allowed more than one vote."¹⁸ Thus, the power is retained by the large national unions, with the additional disadvantage, it is charged, of centralization in the hands of a few delegates. Where proportional representation prevails, it is difficult to unite the numerous delegates for common action. Under the American Federation plan of

¹⁷ Constitution, American Federation of Labor, 1902, Art. IV, sec. 1.

¹⁸ *Ibid.*, 1902, Art. IV, sec. 3.

progressive representation, the limited number of men who exercise a controlling voice based on the total membership of their respective unions, are in a position to form a combination at any time to rule the convention. At the twenty-first annual convention held at Scranton, 1901, eight unions with thirty-two delegates had 3,686 votes, while 233 unions with 278 delegates had 3,583 votes.

The American Labor Union in order to avoid this concentration of power in the hands of a few delegates, has adopted the following plan: "The general convention shall be composed of (a) all members of the general executive board, (b) the general president, (c) general vice-president, (d) general secretary-treasurer, (e) one delegate from each national or international union for the first four thousand members or less, and one additional delegate for each additional four thousand members or major fraction thereof, provided that no national or international union shall be chartered with a membership of less than three thousand members, (f) one delegate from each state, district or city union chartered by the American Labor Union, (g) one delegate from each local union for the first one hundred members or less, and one additional delegate for each additional one hundred members or major fraction thereof."¹⁹ Since, however, the final authority in the American Labor Union rests with the referendum vote of national and international unions, apportioned according to per capita tax, the question of representation has less importance.²⁰

The power of the convention differs greatly in the three organizations. The General Assembly of the Knights of Labor "has full and final jurisdiction in deciding all controversies arising within the Order, and is the highest tribunal of the Order."²¹ Besides having sole power to make or amend any law, it retains control over all branches, and delegates what authority it sees fit to the general adminis-

¹⁹ Constitution, American Labor Union, 1903, Art. III, sec. 1.

²⁰ See post, p. 47.

²¹ Constitution, General Assembly, Art. I, sec. 1.

trative officers and the subordinate divisions. The convention in the American Federation has power to elect officers, to fix salaries, and to pass laws without reference to any other authority. The convention of the American Labor Union has no constitutional power to elect officers nor to fix salaries; it can only make nominations and submit the names to be voted upon to the membership. In other words, the supreme authority of the American Labor Union is vested neither in its convention nor in its officers, but in the collective membership "expressed through the referendum vote thereof."²² The general use of the initiative and referendum has made frequent conventions unnecessary and biennial sessions are now held.²³

The referendum has been used to some extent by both the Knights of Labor and the American Federation. The former provides for the initiative and referendum in minor laws that do not affect the General Assembly and its officers.²⁴ The Federation of Organized Trades and Labor Unions had occasion to use the referendum several times, and its successor, the American Federation, provided in the constitution of 1886 for a referendum vote by the membership upon any amendment to the constitution. In 1887 a further change made it possible for a two-thirds' vote of the convention to enact any law.²⁵ Although the Federation has submitted propositions to popular vote since 1886, the policy has never become a general one. The reason seems to lie in the practical difficulty of obtaining a proper expression of opinion, inasmuch as many unions in the American Federation are not prepared to register a direct vote. Until a larger proportion of the national unions have made successful experiments with the system, it is improb-

²² Constitution, American Labor Union, 1903, Art. II, sec. 1.

²³ In case of a general or sympathetic strike the referendum is not applied. The general executive board has absolute power to deal with the crisis.

²⁴ Constitution, Knights of Labor, 1901, Art. XXXII, secs. 227-228.

²⁵ Report of the Industrial Commission, 1901, Vol. XVII, sec. 43.

able that the initiative and referendum will seriously limit the power of the convention.²⁶

The chief administrative organ in all the general national federations is the general executive board or council. It is composed of the president, the vice-presidents, the secretary, and the treasurer, in the American Federation; of the general master workman, the general worthy foreman, and three members elected by the general convention, in the Knights of Labor;²⁷ of the general president, general vice-president, the general secretary-treasurer, and (a) "one member from each national or international union chosen in such manner as the union may determine," (b) "one member from every four thousand members or fraction thereof embraced in local unions and individual membership," in the American Labor Union.²⁸

The executive board supervises the work and decides questions of policy between conventions. The powers exercised by the executive board vary, however, to a considerable extent in the three organizations. The General Assembly of the Knights, for example, has gone to an extreme in vesting in its board power to deal with matters of local interest.²⁹ The tendency of later constitutional amendments has been in the direction of granting greater freedom to local and district assemblies.

The American Labor Union confers much greater power on the general executive board than does the American Federation, in providing that "the general executive board shall have power to discipline and revoke the charter of a national, international, state, district, city or local union, or to discipline any general officer, local officer or member of the American Labor Union; to suspend, dismiss or expel

²⁶ Constitution, American Federation of Labor, 1904.

²⁷ Constitution, Knights of Labor, 1901, Art. III, sec. 10.

²⁸ Constitution, American Labor Union, 1903, Art. IV, sec. 1.

²⁹ Proceedings, General Assembly, Knights of Labor, 1895. General Master Workman's Address, p. 3.

for cause by two-thirds' vote any general officer except the general president, and any local officer or member of the American Labor Union."⁸⁰ Such sweeping authority is comparable to that formerly exercised by the general executive board of the Knights of Labor. But owing to the autonomous character of the national unions, to the more representative membership of the American Labor Union board, and finally, to the constant use of the referendum, this board in actual practice is not as autocratic as might be supposed.

The most important single official in the general federations is the president.⁸¹ He is elected by the annual convention in the American Federation and in the Knights of Labor, and holds office for one year. In the American Labor Union he is elected in common with other officials by referendum vote, and serves a term of two years or until his successor is installed.⁸²

The General Master Workman of the Knights of Labor, designated at first as the Grand Master Workman, presides at all sessions of the General Assembly, enforces all laws thereof when the General Assembly is not in session, and

⁸⁰ Constitution, American Labor Union, 1903, Art. IV, sec. 6.

⁸¹ Called the General Master Workman in the Knights of Labor.

⁸² The other elective officers of general federations are: the vice-president in the American Labor Union, eight vice-presidents in the American Federation, and the General Worthy Foreman, whose duties correspond to those of a vice-president, in the Knights of Labor; a general secretary and a general treasurer in the American Federation, and a general secretary-treasurer in the other two organizations; and finally, an executive board the composition and duties of which have already been described.

In case of death, resignation, or removal of the executive head, the General Worthy Foreman of the Knights, and the vice-president of the American Labor Union, succeed to the presidency. The vice-presidents of the American Federation have no legal right of succession, and the secretary, in case of death or resignation of the president, summons the executive council to headquarters for the purpose of selecting a president. The duties of the secretary-treasurer do not differ essentially from the duties usually attached to similar offices; see Constitution, American Federation of Labor, 1902, Art. VI, sec. 5. Constitution, American Labor Union, 1903, Art. VII and XI.

superintends the activities of the Order. Besides possessing executive authority between conventions, he must interpret doubtful provisions of the constitution, and these special interpretations have been published from time to time under the title: "The Decisions of the General Master Workman."⁸³

Owing to the nature of the American Federation, its executive head has comparatively slight official power;⁸⁴ but as the official leader of the American trade union movement he exerts a considerable influence over the activities of national and international unions. The American Labor Union delegates more definite duties to its president. "He may convene," for example, "any local union at any time, preside therein, inspect its work, correct its errors, examine its books, and require conformity with the constitution, by-laws, rules and regulations of the American Labor Union." The framers of the constitution by conferring this power "of general supervision and discipline," hoped to build up a system of government in which strict conformity to law should be a distinguishing feature. The president of the American Labor Union likewise may grant charters to state, district, city and local unions; and to national and international unions, unless a charter has already been granted to a national or international union having jurisdiction over the same industry.⁸⁵

Among other important duties, the president of each of the three federations directs his efforts to add to the membership of existing unions, and to extend the work into new fields. For this purpose organizers are appointed in different localities who form new local unions and enlist new members. The executive council of the American Federation is charged with this activity, but as a matter of fact the president is the leading spirit in the work. The

⁸³ The edition of 1890 contained 220 of these decisions rendered at various times.

⁸⁴ The original constitution of 1881 made no provision for an executive head.

⁸⁵ Constitution, 1903, Art. V, secs. 9-11.

Knights of Labor and the American Labor Union give to their respective heads the right to appoint organizers whenever conditions are favorable to an aggressive campaign.

Again, the power of the president is conspicuous in the general convention of the federation, where he selects the committeemen who perform the actual work of the convention. Among the principal committees usually appointed are those on credentials, on rules and order of business, on general officers' reports, on resolutions, on appeals and grievances, on finance, etc.³⁶ Whenever special committees are authorized, the president as a rule has the appointing power.

Notwithstanding the apparent freedom enjoyed by the president in the exercise of certain powers, three important checks tend to exert a conservative influence over all his official acts, (a) the general executive board, (b) the national convention, and (c) the general membership.

(a) Although the General Master Workman of the Knights during the more prosperous days of the Order often possessed extraordinary power, he was always accountable to the general executive board, to whom any appeal from his decisions might be taken.³⁷ Similarly, when the president of the American Labor Union suspends a general officer who is not a member of the executive board, he must await the decision of this board before taking final action.³⁸

(b) The national convention is a more general and probably a more effective check upon arbitrary conduct on the part of the president. The Knights of Labor require their General Master Workman to report to the General Assembly all decisions involving questions of law. Similarly, the

³⁶ At the Richmond Convention of 1886, the period of greatest prosperity for the Knights of Labor, the following committees made reports: Committee on state of order, special committee on financial and industrial depressions, special committee on legislation, committees on coöperation, woman's work, insurance, chinese importation and foreign labor under contract, railway insurance, education, laws, finance, appeals and grievances, journal, general executive board and General Master Workman.

³⁷ Other than upon questions of law which are decided by the General Assembly.

³⁸ Constitution, American Labor Union, Art. V, sec. 13.

presidents of the American Federation and the American Labor Union render to each general meeting an account of the year's work, and receive the approval or the censure of the delegates.

(c) Finally, the president of the American Labor Union is responsible to the membership at large. The delegates who compose the convention are sent to record the wishes of their constituents expressed through the referendum. The final authority in both the American Labor Union and the Federation of Labor rests with the collective membership; but in the American Labor Union, more so than in the American Federation, an immediate connection may be traced between official responsibility and popular control.

The structural similarities and dissimilarities of the three general federations may be further illustrated by a brief description of their financial systems. In the experience of English trade organizations, "centralization of finance implies in a militant organization centralization of administration."⁸⁹ The facts in American experience warrant a similar statement in so far as general federations are concerned.

The General Assembly of the Knights of Labor from the very nature of its activities needed a strong central treasury. By means of a central fund sufficiently strong to aid the branches of the Order in strikes and in coöperative enterprises, the national officials were better able to control the membership and to make effective the laws of the organization. A per capita tax of six cents per quarter for every member in good standing is levied by the General Assembly on each local assembly attached to a state, national trade, or district assembly, and a per capita tax of ten cents per quarter for every member in local assemblies attached directly to the General Assembly. In addition, the sum of five cents is paid by each member to defray the travelling expenses of representatives to the annual convention. Other

⁸⁹ Webb, *Industrial Democracy*, p. 94.

sources of revenue are charter fees, supplies, travelling or transfer cards, etc.⁴⁰

The administrative decentralization in the American Federation is accompanied by a decentralized financial system. Starting in 1881 with an annual tax of three cents per member of the affiliated unions, the "Federation of Organized Trades and Labor Unions" reduced this sum to one cent per member the following year. Again in 1883, provision was made that: "The revenue of this federation shall be derived from each national and international trade or labor union, etc., upon the following basis: For one thousand members or less, \$10.00 per annum; one thousand to four thousand \$20.00; four thousand to eight thousand, \$25.00; eight thousand to twelve thousand, \$30.00," etc. Finally, in 1885, a further constitutional amendment provided that the several unions should pay into the central treasury sums proportionate to their own revenues. When the American Federation of Labor was formed in 1886 an annual tax of six cents per member was placed on national and local unions. The following year this tax was reduced to three cents a year for national and local organizations, with a tax of \$25.00 a year on central labor unions and state federations. After various changes from time to time, the present rate was fixed as follows: "From international or national trade unions, a per capita tax of one-half of one cent per member per month; from local trade unions and federal unions ten cents per member per month, five cents of which must be set aside to be used only in case of strikes or lockouts; from local unions, the majority of whose members are less than

⁴⁰ The receipts of the Knights of Labor from 1879 to 1901 were as follows:

1879	\$ 1,877	1887	\$497,656	1895	\$79,655
1880	6,120	1888	226,164	1896	40,119
1881	12,380	1889	127,026	1897	26,015
1882	16,934	1890	101,933	1898	22,699
1883	38,770	1891	112,738	1899	15,596
1884	34,114	1892	60,614	1900	16,710
1885	65,013	1893	52,683	1901	10,956
1886	206,602	1894	56,050		

eighteen years of age, two cents per member per month; from central and state bodies \$10.00 per year, payable quarterly."⁴¹

The distinguishing feature in the financial system of the American Labor Union is the large revenue assigned to the defense fund and used for strike purposes only.⁴² Out of the five and one-third cents per member per month paid into the central treasury by national and international unions, but one-third of a cent is placed in the general fund for current expenses. The revenue from local unions directly affiliated—twenty cents per member per month—is applied as follows: eleven cents for general expenses, four cents for the expenses of the *American Labor Union Journal*, and five cents for the defense fund.⁴³ A small revenue is derived from an initiation fee of \$2.50 from individual members not belonging to any local union, from charter fees of local and national unions, \$20.00 and \$5.00, respectively, and from dues of state, district, or city unions fixed at \$3.00 per quarter.⁴⁴

⁴¹ The receipts of the American Federation of Labor from 1881 to 1904 were as follows:

1881 \$ 174	1889 \$ 6,838	1897 \$ 18,639
1882 125	1890 23,849	1898 18,894
1883 690	1891 17,702	1899 36,757
1884 357	1892 17,834	1900 71,125
1885 584	1893 20,864	1901 115,220
1886 474	1894 15,346	1902 144,498
1887 1,939	1895 13,751	1903 247,802
1888 4,512	1896 16,290	1904 220,995

⁴² The present constitution was adopted in December, 1903. Previous to that time the revenues were derived from a per capita tax of seven cents per month, which was increased to ten cents per month at the convention of 1901. Three cents of this amount was used for organizing expenses, but it seems that the amount spent for organizing exceeded this appropriation. From July, 1901, to March 31, 1902, for instance, almost \$1,000 had been taken from the general fund to supply the deficiency in the organizing fund. See *Proceedings of the Fifth Annual Convention*, p. 20.

⁴³ The receipts of the American Labor Union from 1900 to 1903 were as follows:

1900 \$5,656	1902 \$12,822
1901 3,970	1903 18,656

⁴⁴ Constitution, American Labor Union, 1903, Art. IX, secs. 1, 2, 4-7.

CHAPTER III.

FUNCTIONS.

From a review of the structural differences existing among general labor federations, outlined in the preceding chapter, attention may now properly be directed to a comparison of their respective activities in certain typical fields. This will involve a survey of the policies of the several federations with reference to (*a*) jurisdictional disputes, (*b*) the enlistment of new members, (*c*) the union label, (*d*) coöperation, (*e*) boycotts and strikes, (*f*) the eight-hour day, and (*g*) politics and legislation.

(*a*) One of the chief advantages of a strong federation is its ability to adjust the frequent jurisdictional disputes that arise between unions. A serious weakness of trade unions in their relation with one another has heretofore been the attempts of aggressive organizations to gain larger jurisdiction, regardless as to whether the added control has or has not been at the expense of other unions. One purpose of federation is, therefore, to bring about a clear understanding so that each union may control a certain trade or industry without interference from other unions.

In marked contrast to the effective power of the general executive board of the Knights of Labor to settle jurisdictional disputes, the executive council of the American Federation is narrowly limited in this field. Acting in a judicial capacity the council has little power to enforce its trade jurisdiction decisions—the real test of authority. The severest penalty which may be inflicted on a union for disobedience is suspension or expulsion from the federation; and this is not considered a great hardship.

An example will serve to make the gravity of the situation clearer. The United Brewery Workmen included in their

organization engineers and firemen. The national unions of these two trades, separately organized, also claimed jurisdiction over the brewery engineers and the brewery firemen; but as this claim was not allowed by the United Brewery Workmen, a long bitter struggle followed, in which the American Federation took an active part. The executive council rendered conflicting decisions at different times, but since 1902 it has consistently granted jurisdiction over the brewery engineers to the International Union of Steam Engineers, and over the brewery firemen to the International Brotherhood of Stationary Firemen. Recently the American Federation has threatened to suspend the Brewery Workmen, but the latter refuse to obey and are awaiting the next move on the part of the Federation.¹

The slight influence of the executive council of the American Federation of Labor in jurisdictional disputes is due partly to the composition of the council. In 1904-05 the members of the executive council consisted of a cigarmaker, a granite cutter, a miner, a glass bottle blower, a wood worker, a retail clerk, a tailor, a printer, a machinist, a plumber, and a longshoreman. The ordinary trade unionist naturally dislikes to have his trade affairs settled by a board whose members are unfamiliar with conditions in that particular trade.²

Again, the absence of a central defense fund and the maintenance of separate treasuries by the national unions apart from that of the Federation, form elements of weakness whenever the council has occasion to enforce its decisions. To prevent, as far as possible, jurisdictional disputes, the

¹ The Brewery Workmen assert that they have the same right to the men who work in and around the brewery, as the United Mine Workers have over those who work in and around the mine. For this reason, they say, the American Federation is inconsistent when it makes demands on the United Brewery Workmen, and allows the United Mine Workers to admit engineers, firemen, blacksmiths, drivers, etc.

² Thus we find allied trades federations like the International Building Trades Council and the Structural Building Trades' Alliance, organized to deal with questions peculiar to the industry; see post, pp. 79 et seq.

constitution of 1901 provided that no charter should be granted by the American Federation of Labor to any national or international union without a positive and clear definition of the trade jurisdiction claimed by the applicant.³

The American Labor Union undertakes more definitely the task of settling jurisdictional disputes by giving to its executive board authority to determine the respective jurisdictions of all national, international or local unions, when not otherwise determined by the constitution. A clause in the constitution declares that all employees, irrespective of trade, craft, occupation, or calling, engaged in one industry "shall be eligible to membership in and under the jurisdiction of a national or international chartered union having jurisdiction over that industry."⁴ Prior to 1903 the American Labor Union was inclined to avoid the responsibility of a decision affecting two or more of its branches. Thus, a resolution adopted in 1901 at the fourth annual session declared that the Union had frequently been urged to settle jurisdictional differences between affiliated bodies, that these appeals had multiplied without resulting in permanent good, and that in future the federation would act as arbitrator only in cases in which the unions directly interested should agree to submit the question, and to abide by the decision of an impartial board.⁵ At the present time, however, with each local an industrial union and each national an alliance of all the locals in a particular industry, jurisdictional disputes are less likely to occur.⁶

³In 1902 the controversy between the International Association of Machinists and the Amalgamated Society of Engineers was referred to the executive council which revoked the charter of the Engineers. The convention held in November, 1902, indorsed this action; see American Federation of Labor, proceedings, 1902, pp. 57, 205.

⁴Constitution, American Labor Union, 1903, Art. IV, sec. 19, and Art. X, sec. 4.

⁵American Labor Union, Fourth Annual Convention, 1901, p. 75.

⁶For instance, where all men engaged in mining are in the miners' union, there is little room for the claim of another union. But with the present rapid changes in industry, if each branch be organized according to trade or craft endless complications may arise.

When an inter-union dispute actually does occur, the power of the American Labor Union is not weakened by the causes noted above with respect to the American Federation. The executive board of the Labor Union in the first place is more representative than that of the Federation, containing one member from each national or international union, and one member for every four thousand members in local unions attached to the Union.⁷ In the second place, the American Labor Union has a growing defense fund controlled almost absolutely by its officials.⁸

(b) The activity of the Knights of Labor and the American Federation of Labor in carrying out their respective plans of organization resulted from time to time in serious misunderstanding. Any agreement in the nature of a *modus vivendi* would have prevented ill-feeling. But personal enmity among the leaders, who steadily refused to recognize the claims of the rival federation, delayed a permanent understanding. As each side persisted in its efforts to include all wage-earners, the circles of activity intersected giving rise to dual authority on the part of the federations and divided allegiance on the part of individual members.⁹

The Knights of Labor, relying on the full control exercised by the General Assembly over all branches in case of dispute, were anxious to secure as members persons already affiliated with local and national trade unions. This policy often led the Knights into sharp conflict with the national trade unions. The secretary of the Bricklayers and Masons' International Union, an organization whose attitude toward the Knights of Labor is fairly typical of the period, declared in an official statement: "We claim that a district assembly of Knights of Labor masons, in or near a locality where a

⁷ Constitution, American Labor Union, Art. IV, sec. 1.

⁸ See post, p. 67.

⁹ A circular issued by the 1882 convention of the Federation of Organized Trades and Labor Unions declared: "The open trades unions, national and international, can and ought to work side by side with the Knights of Labor, and this would be the case were it not for men over-zealous or ambitious. Each should understand its proper place and work in that sphere."

branch of our organization exists, is a direct injury to the advancement of our craft, for we claim and demand that all men following a distinct calling having a national or international trade union in existence should be required to join the order of his calling and no other so that all may be members of a parent organization."¹⁰

The American Federation of Labor from the very beginning opposed dual organization in any one trade. Where dual affiliation did exist, as, for example, in the printing, hat, cigar, and brewing industries, and where individuals were members both of a union and of the Knights of Labor, strict autonomy could not be maintained. Consequently, the American Federation discouraged all efforts of the Knights of Labor to organize into district and national trade assemblies such trades as already had a national trade union.

The question came up for settlement at repeated conferences, the Federation adhering throughout to its original stand against dual affiliation in a single trade. At a meeting held in Philadelphia, 1886, between representatives of the Knights of Labor and of the national trade unions, the latter proposed as the basis of an adjustment, that the "charter of any Knights of Labor assembly or any trade having a national or international union should be revoked and the members of the same be requested to join a mixed assembly or form a local union under the jurisdiction of their national or international union."

Renewed efforts were made from time to time to reach a settlement. The American Federation of Labor promised in 1889 that, should the Knights of Labor "discountenance and revoke the charter of all trade assemblies or districts within the Order, the Federation would agree to urge its members and all working people to become members of mixed assemblies of the Knights of Labor." The adoption of this plan would have given the national unions affiliated with the Federation complete control over their respective

¹⁰ Bricklayers' and Masons' International Union, Secretary's Report to the Twenty-first Annual Convention, 1887.

fields in all trade matters, and would have left to the local and district assemblies of the Knights the work of intellectual, social and political improvement. In other words, the Knights of Labor, divested of all trade authority, would have become the central reform bureau of the labor movement.¹¹ The Knights, however, refused to accept the terms proposed, and the Federation decided at the annual convention of 1894, that "no meeting or conference with the Knights of Labor officials shall be held until they declare against dual organization in any one trade."

The opposed principles of the two organizations met in a single issue,—the mutual recognition of working cards. The matter was vital to each organization. If the Federation and the national trade union did not recognize the mixed assembly as bona fide locals, then the members were not union men and could not work with union men in closed shops. On the other hand, if the working card of the Knights of Labor were respected by the trade unions, the members by that act gained status as union men, and the Federation practically lost its fight for trade autonomy.¹²

In 1886, when the committee of trade unions suggested a permanent truce, the Knights of Labor proposed the mutual exchange and recognition of working cards,—“the card of any member of the Order admitting him to work in any union shop, and the card of any union man admitting him to work in any Knights of Labor shop.”¹³ The Federation of Labor refused to concede this position on the ground of self-preservation, since blacklisted and expelled members of trade unions or men hostile to trade unionism could be initiated into the Order. Thereafter, trade unions would be obligated to accept the cards of these non-union men.

¹¹ It is worthy of note that during this period of agitation against dual organization, some ten or more trade assemblies acting efficiently as trade organizations existed within the Knights of Labor.

¹² Proceedings, Fourteenth Annual Convention, American Federation of Labor, 1894, p. 66.

¹³ Report of Committee of Conference: Knights of Labor and Trade Unions, 1886, p. 3.

Although the Knights of Labor denied having any such intention, the existence of the power remained a menace as long as the standards of the two federations with regard to union membership were different. On the other hand, the Knights of Labor suffered if the plan for the mutual recognition of working cards was unsuccessful. Where a temporary alliance of forces was necessary, as in a sympathetic strike, the Knights could hardly be expected to work shoulder to shoulder with unionists, if at the conclusion of the struggle the trade unions could boycott the members of the Order by refusing to recognize their working card.

The unfavorable attitude of the Federation meant little to the Knights in 1886 when the Order was strong and influential. With the growth of the trade union spirit, and the corresponding decline of the mixed assembly, the situation became more serious. No adjustment or compromise was ever reached, and it was only when the Knights of Labor ceased to hold an important position in the labor movement that the question at issue between the organizations practically settled itself.

Up to the present time, the relations between the American Federation and the American Labor Union have been less unfriendly, although the American Federation has discouraged the independent western movement. Two delegates were sent to the 1902 convention of the Western Labor Union in the interest of international federation, one of whom in his address declared: "You cannot have two organizations in America claiming the same jurisdiction without friction; it is difficult enough for international organizations to live to-day. We ask every wage-earner, organized and unorganized, to go into their local unions and to see that those local unions are affiliated with their national organizations, and that those national organizations should stand for unity,—namely, the American Federation of Labor."¹⁴ These advances of the American Federation

¹⁴ Proceedings, American Labor Union, 1902, pp. 40-42.

were not received with favor, and a short time thereafter the secretary-treasurer of the American Labor Union in his annual report said: "With all respect to those thousands of really earnest and sincere unionists who are members of the American Federation of Labor, it must be said that the attitude of the general officers and executive council of that organization during the past year has been such as to merit the supreme contempt of real unionists everywhere."¹⁸ The American Labor Union has indeed made efforts from time to time to win over certain eastern unions already affiliated with the American Federation of Labor.

(c) The trade label was first used by a local cigarmakers' union in San Francisco, in 1874, to distinguish American made cigars from the work of competing Chinese coolies. Local assemblies of cigarmakers were active in the Knights of Labor as early as 1882, but apparently no difference manifested itself between the assemblies and the unions with respect to the label. The *Journal* of the Knights of Labor declared in November, 1882: "Both organizations, the Knights and the Cigarmakers' International Union, have a common purpose in trying to protect the product of union labor." Unfortunately, however, whereas the Cigarmakers' Union had adopted a blue label as the stamp of union goods, the Knights of Labor, wishing a distinctive mark, chose a white cigar label. As a result, the harmony at first present soon gave way to keen competition between the organizations, growing more and more intense, until it became bitter rivalry and open conflict.

The American Federation, as we have seen, exerted its influence in favor of the national trade union. Had the Federation recognized the labels of the Knights of Labor, the latter organization would have been virtually granted full rights as a union, and vested with coördinate authority in the conduct of trade affairs. To prevent this condition, the proposed "treaty" of 1886 contained the provision:

¹⁸ Report of the Secretary-treasurer, Sixth Annual Convention, 1903, American Labor Union.

"The Knights of Labor shall not establish or issue any trade mark or label in competition with any trade mark or label now issued, or that may be hereafter issued by any National or International Union."¹⁶ The Knights of Labor, however, regarded themselves as pioneers in the use of the label and refused to give up its use. At subsequent conferences between representatives of the Knights of Labor and the American Federation, the two organizations insisted on their respective demands without definite result.

The methods employed by the Knights and the Federation in extending the use of the label have been largely influenced by their structural differences. The Knights of Labor, highly centralized, issue labels from headquarters, and vest in the general executive board complete control over their distribution. The American Federation, on the other hand, makes no attempt to control the labels of national and international unions, merely indorsing and advocating those already adopted.¹⁷

In order to gain uniformity and more particularly to prevent counterfeiting, a universal label has from time to time been suggested. The general executive board of the Knights of Labor in 1884 actually adopted a general label to be used upon all goods manufactured or sold by members, but this device was soon replaced by individual trade labels.¹⁸ In 1900 the officials of the American Federation obtained a legal opinion to the effect that counterfeiting could be better punished if all unions should surrender their labels and adopt that of the Federation of Labor. Inasmuch as this would involve the surrender by each union of some part of the very trade autonomy for which the Federation had always contended and the recognition of the Federation as a sovereign body, at least for the purpose of "issuing, con-

¹⁶ Report of Committee of Conference: Knights of Labor and Trade Unions, 1886, p. 3.

¹⁷ Only local and federal labor unions directly attached to the American Federation receive their labels from national headquarters.

¹⁸ Proceedings, General Assembly, 1884, pp. 624-625.

trolling, protecting, and defending the universal label," the step recommended has not been taken.¹⁹

Prior to the annual convention of 1903, the label policy of the American Labor Union was similar to that of the Federation of Labor. Thus, at the third annual session resolutions were adopted favoring the labels of certain unions, and pledging the support of the Union to the United Brewery Workmen and the Cigarmakers' International Union in their efforts to extend the use of the trade label. The convention of the following year declared: "We, the members of the Western Labor Union, do hereby pledge ourselves to assist those organizations handling union goods by demanding and purchasing no other class of goods than those which bear the union label."²⁰ Finally, at the sixth convention, the committee on resolutions recommended that the union label adopted by the American Labor Union be the only label issued by any local, national, or international union or organization affiliated with the national federation, and that the only difference permitted be with respect to the size and shape of the uniform design.²¹ By accepting this report the convention practically established a universal label for all branches of the American Labor Union.

(d) It is clear that the founders of the Knights of Labor conceived an industrial system in which men should work for themselves instead of for others. For such an undertaking, the structure of the Knights of Labor was far superior to that of the rival federation. The mixed assembly admitted men in many walks of life, and controlled demand as well as production. If a trade local embarked on a coöperative enterprise, the chances of success were minimized by virtue of the limited number directly concerned; but when a mixed local, in a community organized into

¹⁹ American Federationist, December, 1900, pp. 376-377; Proceedings, American Federation of Labor, 1900, p. 30.

²⁰ Proceedings, Fourth Annual Convention, Western Labor Union, 1901, p. 72.

²¹ Proceedings, Sixth Annual Convention, American Labor Union, 1903, p. 78.

Knights of Labor assemblies, ventured on independent production, the collective patronage affiliated therewith assured a market. As the local became the factory, the district or union of neighboring locals developed into the exchange.

Two schools of thought early differentiated themselves in the Knights of Labor. The one advocated an aggressive policy of strikes in order to enforce demands. The other, representing the conservative element, emphasized the futility of strikes as a factor in attaining permanent reform. It was due to the influence of the peace adherents that coöperation found persistent encouragement. In June, 1882, a coöperative fund, with a compulsory feature attached, was established. From this fund investments were made and enterprises started as the financial condition of the Order justified. The compulsory nature of the law, however, proved a serious defect and soon led to the adoption of an amendment making contributions voluntary.²²

With modified machinery, the officials thereafter sought to realize, at least in some degree, the industrial state conceived as an ultimate aim of the movement. Experiments in coöperative stores, factories, and institutions, were reported in 1882 from seventeen out of one hundred localities. In 1887 the general coöperative board, which had been created for the purpose of encouraging and conducting coöperative enterprises, announced that eight halls and buildings, eleven newspapers and fifty-four workshops, factories, etc., were conducted on a coöperative plan.²³ The general result of such ventures was disappointing. Probably the chief cause of failure was the lack of business experience in the management of the coöperative enterprises. Such undertakings ordinarily originated in a strike or lock-out, where men entered upon the project with funds drawn from the central treasury. As soon as the trouble ceased, and choice had to be made between a safe situation and

²² Constitution, General Assembly, Knights of Labor, 1884, p. 16.

²³ Proceedings, General Assembly, Knights of Labor, Eleventh Regular Session, 1887; see Report of the General Coöperative Board.

participation in a risky venture, the enthusiasm rapidly abated. The small confidence placed in the managers and the opposition encountered on all sides from independent producers were also important influences in the business failures of the Knights.²⁴

The ideal of coöperation, as conceived by the Order, included the establishment and maintenance of industrial peace by bringing both employers and employees into one organization. Though this ideal was not realized to any extent, it explains the readiness with which the Knights so often consulted the wishes of the employers, and the willingness with which the Order joined hands with one organization of employers,—the Farmers' Alliance.²⁵ The American Federation of Labor, on the other hand, has made no attempt to become an employer through coöperative enterprises and has refused to organize farmers into unions, on the ground that they were employers and not workmen.

(e) The Knights of Labor developed the use of the boycott as an instrument of industrial warfare. The same breadth of organization that facilitated the distribution of coöperative products was effective in the field of consumption. A trade union in any locality may cease purchasing an article without appreciably reducing its sale, since the number of consumers observing the boycott is necessarily small; but an assembly of the Knights of Labor, supported by a large part of the laboring consumers in the vicinity,

²⁴ The most ambitious venture of the Knights of Labor in coöperation took place in 1884 when a coal mine at Cannellburg, Indiana, was purchased for \$10,000. An assessment of 20 cents per member was levied in October, 1884, for the purpose of making improvements. Misfortunes, however, followed in rapid succession until in 1897 the general executive board decided to sell the mine for \$4,000; see Proceedings, General Assembly, 1897, p. 34.

²⁵ Journal of the Knights of Labor, Vol. XI, No. 6, Aug. 7, 1890. The preamble adopted by the General Assembly in 1878 favored "the substitution of arbitration for strikes, wherever and whenever employers and employees are willing to meet on equitable grounds"; and the preamble to the constitution of 1884 included as one of its demands (sec. 10), "the enactment of laws providing for arbitration between employers and employed and to enforce the decision of the arbitrators."

wielded an influence in proportion to the purchasing power of all the members interested. More important still, under the centralized power whereby the General Assembly controlled the subordinate divisions, a strict observance of a boycott was secured.²⁶ In actual practice, however, the general executive board, in whose hands the authority to place a boycott rested, usually depended upon the voluntary action of the membership. Circulars containing a full statement of the case were sent to the local assemblies, with the request that they be read at successive meetings to acquaint the members with the facts.²⁷

The American Federation of Labor and the American Labor Union have paid considerable attention to the exercise of the boycott as a national function. The American Labor Union grants to its general executive board, for example, power "to declare any article, individual, firm, company, corporation, trust, railway, or other person, institution or thing, fair or unfair to organized labor; and all national, international or local unions, or individual members of the American Labor Union shall absolutely respect and comply with these declarations."²⁸

The method usually employed by the American Federation in placing a boycott is as follows: Local or national unions with grievances send resolutions to the headquarters of the American Federation of Labor. The committee of the Federation whose duty it is to investigate the justice of the complaint, reports to the executive council or to the annual convention, if in session. In case of a favorable report, a boycott is declared on the products of the firm or firms involved, and the names of the manufacturers are published monthly in the "unfair list" of the *American*

²⁶ Any order issued by the general executive board whether in the form of a circular or through the columns of the official journal had to be obeyed; any assembly refusing to obey was guilty of insubordination and liable to be suspended; see "Decisions of the General Master Workman," 1890, No. 60.

²⁷ Journal of United Labor, February 11 and 25, 1888.

²⁸ Constitution, American Labor Union, 1903, Art. IV, sec. 15.

Federationist, the official journal of the American Federation of Labor. In addition to placing the firms on the "unfair list," circulars are sent to the unions in the Federation, requesting all union men to cease purchasing the products of the boycotted firms. At the present time the national officials exercise considerable care in the use of the boycott, and concentrate attention upon a small number of firms.²⁹

In the fourth convention at Pittsburg, 1880, the Knights of Labor declared that "strikes are as a rule productive of more injury than benefit to the working people, consequently, all attempts to foment strikes will be discouraged."³⁰ At that time no provision for strikes appeared in the constitution; but when the organization came into contact with practical affairs, a strike fever swept over the membership and strike regulations became necessary. In the constitution of 1884 provision was made for district executive boards with power to accept or reject the terms offered by employers during a strike.³¹ Moreover, a district assembly, having ordered a strike of any local in its jurisdiction, was privileged to draw upon the funds of other district assemblies whenever the assistance fund had become exhausted.³² The amount received in this way from different assemblies was considered a loan without interest to be repaid as soon as possible.

The movement was not confined to trade or local strikes, however, for strong influences were at work to convert the Order into an aggressive militant organization. Accepting

²⁹ Proceedings, American Federation of Labor, 1904, p. 85.

³⁰ The General Master Workman in his address to the sixth regular session of the General Assembly, 1882, said: "A strike cannot remove or repeal unjust laws, for at best, the strike secures but temporary relief; it may result in an advance in wages, but, if so, it is a dearly bought victory, and at the first available opportunity another reduction is imposed"; see Proceedings, General Assembly, 1882, p. 278.

³¹ Constitution, District Assemblies, Knights of Labor, 1884, Art. VII, sec. 2.

³² Constitution, General Assembly, 1884, Art. XV, sec. 6.

the motto, "An injury to one is the concern of all," in the literal sense, the newly initiated element sought to widen the area of every strike by ordering out all the employees of an offending employer. The most conspicuous example of this tendency, and in fact the first great sympathetic strike of the Knights took place in 1886 on the Southwestern Railroad System.⁸³ The trouble concerned one branch alone; but the district assembly, acting upon the authority granted by the constitution, ordered a general strike. The strike on the Southwestern Division ended disastrously, and the sympathetic strike fell into temporary discredit. Resolutions were adopted at the special session of the General Assembly, 1886, forbidding any local, trade district, or state assembly to declare a strike before a secret ballot had been taken of all the members in good standing, and in no case permitting a strike unless two-thirds of those immediately concerned voted in favor of it.⁸⁴ In two other instances the Knights of Labor tried similar experiments on a large scale and each time failed in their demands.⁸⁵ Though the machinery for carrying on sympathetic strikes remained, the Knights thereafter accepted the general verdict that federation activity in this field did not pay.

The American Federation of Labor has regarded the strike as the best means to gain trade union ends under a system of capitalistic production, and has advocated thorough organization along trade lines as the strongest protection of labor. Being merely an advisory center, and depending upon the loyalty of trade unionists working through their respective nationals, the Federation has been unable to act positively or directly with respect to strikes. It can recommend and urge certain policies, but it lacks the

⁸³ Hall, *Sympathetic Strikes and Sympathetic Lockouts*, in *Columbia University Studies*, Vol. X, p. 82.

⁸⁴ *Proceedings, Special Session, General Assembly, 1886*, p. 49.

⁸⁵ The two strikes referred to are the Longshoremens's strike which began the first week in January, 1887, and the Reading Railroad strike of 1888.

centralized control so prominent in the Knights of Labor.⁸⁶ Consequently, the Federation, profiting by the costly experience of its contemporary, has followed a conservative course in industrial conflicts and has served only as a source of moral and financial support to the national unions involved.⁸⁷ The secretary of the American Federation before the fifteenth annual convention in 1895 declared that sympathetic strikes are not opposed by the organization and that assistance would be given wherever it was needed; nevertheless, he added, as there is a limit to the assistance exacted of one union in support of another, the safest plan is to allow the individual organization itself to judge. This position when strictly adhered to limits the Federation to serving as a convenient center from which moral and financial aid may be distributed.

The American Labor Union, on the other hand, gives to its executive board the power "to approve or sanction a strike of any national or international union, local union or number of local unions, when the same has been ordered by a two-thirds' vote of all members voting on secret ballot."⁸⁸ Unless the subordinate unions comply with these regulations the federation withholds moral and financial support. Moreover, the American Labor Union, by constitutional provision adopted by referendum vote in 1903, grants to its general executive board full power "by two-thirds' vote to initiate and order local or general strikes of any and all members of the American Labor Union, or any national, international, or local union or unions thereof, at any time or place, whenever in the judgment of the general

⁸⁶ The officials of the Federation of Labor, for example, have consistently urged the adoption of high dues and benefits and have impressed the fact that a strong treasury is the great factor in a successful strike.

⁸⁷ For instance, the convention of the American Federation held at San Francisco, November, 1904, levied an assessment of one cent per week for three weeks on the membership to aid the United Textile Workers in their strike at Fall River, Mass.; see *Proceedings, American Federation of Labor, 1904*, p. 155.

⁸⁸ Constitution, American Labor Union, 1903, Art. IV, sec. 6.

executive such action is necessary for the welfare of the American Labor Union."³⁹

All three of the general federations maintain defense funds, and the disbursement of these funds is in the hands of the executive boards. The Knights of Labor established an assistance fund to aid locals on strike in 1884.⁴⁰ Each local assembly forwarded monthly to the district assembly the sum of five cents per member; and each district assembly had control over the fund collected from the different locals; but the general executive board had the right to assess such district assembly fund for the support of any other assembly whose treasury had been depleted by strikes or lockouts.⁴¹ A little later contribution to the assistance fund was made voluntary and at the present time any district or local assembly may create and have entire control of its own assistance fund.⁴²

The defense fund of the American Federation established at the annual convention of 1901, is intended solely for the local unions directly affiliated with the American Federation. The fund is derived from a per capita tax of five cents per member per month, and in case of a strike is distributed as follows: to each member on strike, for a period of six weeks an amount equal to \$4.00 per week. The executive council regulates any further payment of strike benefits.⁴³

³⁹ Ibid., 1903, Art. IV, sec. 8.

⁴⁰ The constitution of 1878 made no reference to a fund for strike purposes, but provided for a "Resistance Fund" as follows: "Each Local Assembly shall set apart in a special investment each month, a sum equal to five cents each for every member upon the books, which fund shall accumulate and remain intact for the space of two years from January, 1878. After that time it will be held for use and distribution under such laws and regulations as the General Assembly may adopt"; see Proceedings, General Assembly, 1878, First Annual Session, p. 32.

⁴¹ Constitution, General Assembly, 1884, Art. XV, secs. 1-5 and Proceedings, General Assembly, 1884, p. 756.

⁴² Constitution, General Assembly, Knights of Labor, Art. VI, sec. 43.

⁴³ From February 1, 1903, to September 30, 1903, the total amount paid from the defense fund was \$6,690; see Constitution, American Federation of Labor, Art. XIII, sec. 5.

The defense fund of the American Labor Union, on the other hand, is collected from the entire membership. As in force on February 1, 1904, provision is made for a payment of five cents per member per month to be used exclusively "for the purpose of conducting strikes and paying strike benefits when such strikes have been duly and legally approved by the general executive board."⁴⁴ Any local entering upon a strike authorized by the general executive board has the "central defense fund" to draw upon. This common interest in the national purse is intended to produce such unity of action as will shorten strikes. Since the larger industrial unions in the American Labor Union are as much interested in the defense fund as the locals directly affiliated, all members have a common concern in settling the matter speedily and stopping the drain on the central treasury. The strike pay given to members who have been on strike for seven consecutive days does not exceed \$5.00 per week for strikers with families dependent upon them, and \$3.00 for other strikers.⁴⁵

(f) In the original platform of the Knights of Labor an eight-hour plank figured prominently: "The reduction of the hours of labor to eight per day, so that the laborers may have more time for social enjoyment and intellectual improvement, and be enabled to reap the advantages conferred by the labor-saving machinery which their brains have created."⁴⁶ In 1882 the platform of the Federation of Organized Trades and Labor Unions, later the American Federation of Labor, declared: "The National Eight-Hour Law is one intended to benefit labor and relieve it partly of its burdens. We therefore demand the enforcement of said law in the spirit of its designers."⁴⁷ A resolution of the third session, in 1883, stated that the Federation "considers

⁴⁴ Constitution, 1903, Art. IX, secs. 1 and 2.

⁴⁵ Constitution, American Labor Union, 1903, Art. IV, sec. 11.

⁴⁶ Constitution, General Assembly, 1878, Preamble.

⁴⁷ Federation of Organized Trades and Labor Unions, Second Annual Session, 1882, p. 1.

the question of shortening the hours as paramount to all other questions at present"; and in the secretary's report to the convention of 1884, a plan to shorten the hours of labor was strongly urged. In consequence of this agitation, it was suggested that the unions be canvassed as to the desirability of a universal strike not later than May 1, 1886, at which time all branches should simultaneously demand an eight-hour day. Realizing that the Federation was weak in authority and in numerical strength, the officials asked the coöperation of the Knights of Labor.⁴⁸ The latter organization failed to support the movement, and the plan did not reach serious proportions.

The next attempt came in 1888, when a resolution passed the annual convention of the American Federation of Labor fixing May 1, 1890, as the day for a general strike, and arranging for preparatory mass-meetings to be held in various cities and towns.⁴⁹ Renewed efforts to form a temporary alliance with the Knights of Labor failed, but circulars and pamphlets were scattered widely, and prominent speakers were sent by the American Federation to different parts of the country to prepare trade union members for the proposed universal strike. Warned by the complete failure of previous general strikes, the more advanced leaders agreed that the struggle could be carried on more successfully if certain trades were selected to make the fight, supported by the combined strength of the other unions working through the Federation. Consequently, a series of individual trade strikes was determined upon, in which one trade after another would be selected to strike for shorter

⁴⁸ Federation of Organized Trades and Labor Unions, Fourth Session, 1884, pp. 19-20, 31.

⁴⁹ At the eleventh regular session of the General Assembly, Knights of Labor, 1887, the report of the committee on the state of the order was adopted, as follows: "*Resolved*, that the General Master Workman confer with the heads of international and national labor organizations with a view to holding a convention to bring about the adoption of the eight-hour law by a gradual reduction of the hours of labor."

hours until all trades had obtained the eight-hour day.⁵⁰ In view of the present influence of the American Federation in the labor movement, it is probable that "the successive strike" will be the favored line of activity. At the twenty-fourth annual convention, for example, the American Federation indorsed the eight-hour movement of the International Typographical Union, and promised to levy the constitutional assessment on the membership if at any time after January 1, 1906, the Typographical Union needed further assistance.⁵¹

As a part of the general movement to improve conditions in the West, the American Labor Union has persistently urged the passage of an eight-hour law by the state legislatures.⁵² Resolutions indorsing particular efforts of the various unions, and pledging the united support of the American Labor Union to all members on strike for shorter hours, have been adopted by the several national conventions.

(g) The political methods employed by trade organizations to remove social ills and to gain positive advantages may be roughly classified as, first, independent political action, and second, temporary alliances with existing political parties in order to obtain legislation favorable to labor. The national federations here considered have all recognized the advantages possessed by an alliance of trades over single trade unions in any political movement, and have shaped their respective policies accordingly. A sharp distinction arises, however, in the relative importance attached

⁵⁰ In the eight-hour strike of 1890, the Brotherhood of Carpenters and Joiners was selected by the Federation to make the fight. A special assessment was levied and every effort made to win the strike, with the result that the Carpenters and Joiners established the eight-hour day in several large cities.

⁵¹ Proceedings, American Federation of Labor, 1904, pp. 180-181.

⁵² The president reported to the convention of 1901, that the Montana legislature largely through the efforts of the Western Labor Union, the Western Federation of Miners, and other labor organizations, had passed an eight-hour law to apply to the miners, and to the mill and smeltermen of the state; see Proceedings, Western Labor Union, 1901, p. 16.

to each method by the different federations. For example, the Knights of Labor, as an organization, was consciously designed for political activity, whereas the American Federation holds the position that more good can be accomplished by leaving party politics alone and centering attention on labor legislation.

The position of the Knights of Labor was explained by the General Master Workman in an address to the seventh session of the General Assembly: "One reason why political parties degenerate is because the masses of the common people are not educated. If we were, we could more easily discern the difference between good and bad legislation, and we would not be clamoring so often for the repeal of bad laws. The chief aim of the Knights of Labor is to educate not only men, but parties; educate men first, that they may educate parties and govern them intelligently and honestly."⁸³ In accordance with this view, education as a means to the larger end became an important branch of activity, materially aided, it may be said, by the distinct quality of the local assembly itself which embraced as a rule men of various callings and widely different walks of life. Where men of a single craft are organized separately, the sympathy and unity of interests, so vital to any decisive political advance, are lacking. On the contrary, an organization like the Knights of Labor, representing a highly centralized type of federation and disregarding the trade boundaries formerly observed, was well prepared to educate its members and promote a feeling of solidarity among all classes of workers.

At the second regular session of the General Assembly a resolution was adopted requiring each local assembly to devote not less than ten minutes nor more than one hour of each session thereof to the discussion of subjects bearing upon the labor question, such as convict labor, eight-hour day, child labor, how can the toiler receive a just share

⁸³ Proceedings, General Assembly, 1883, p. 401; see *Pittsburg Times*, July 16, 1883.

of the wealth he creates? etc.⁶⁴ The general executive board appointed lecturers from time to time who visited the assemblies and addressed them upon topics of interest to labor. In May, 1880, appeared the first number of the *Journal of United Labor*, primarily designed as a medium of communication between the branches of the Order, and as an unprejudiced herald of advanced views. Unable to maintain the independence of a non-partisan publication, it gradually grew more biased as the struggle with external forces became more bitter, until the original purpose of an educational organ almost wholly disappeared.

The Knights of Labor assembly, besides the advantages claimed for it over the strict trade union in the education of its members, possessed greater efficiency in any political movement. Trade unionists in their independent organizations were too weak in numbers to change the result of an election, whereas the members of the Knights of Labor, representing all classes and acting as a unit, practically controlled the issue.

With these advantages clearly understood, the belief that labor must carry its demands beyond the workshop, and crystallize definite reforms into statute laws, received greater attention than ever before. The constitution of 1879 (Art. 10, sec. 1) stated: "A district assembly or a local assembly under the General Assembly may take such political action as will tend to advance the interests of the Order or the cause of labor. But when political action is contemplated, the regular business of the district assembly or the local assembly shall be concluded, and the district assembly or local assembly regularly closed. (Sec. 2) Local assemblies may properly use their political power in all legislative elections, and it is left to the dictation of each local assembly to act with that party through which it can gain the most. An assembly shall not take political action unless three-fourths of the attending members are united in supporting

⁶⁴ Proceedings, General Assembly, Second Regular Session, 1897, pp. 74-75.

such action. No member, however, shall be compelled to vote with the majority."

From 1880 to 1885 the intense interest manifested in political affairs evoked a warning note from headquarters: "So surely as we run into politics shall we be disrupted." In many localities, the success achieved by the Knights of Labor in municipal elections had been so pronounced that the membership at large became ambitious to extend the activity to national affairs. A party in which all reformers could find a place appeared a fitting substitute for the two corrupt, boss-ridden political organizations. Hence, in 1890, a further step was planned by the leaders,⁵⁵ who succeeded a little later in stimulating a wave of enthusiasm for the National People's Party of 1892, with "land, transportation and finance" as the campaign cry.⁵⁶ Pledged in this manner to political action, the federation dissipated much of its energies in a vain effort to make industrial forces politically supreme, and in so doing, caused the internal dissensions which have so often attended the political affiliation of labor bodies.

Following the policy of the Knights of Labor, the American Labor Union has from the very beginning urged upon its branches independent participation in national, state and municipal elections. The convention of 1900, for example, declared that the only way to effect a permanent improvement in labor conditions is for the working man to vote for candidates and measures favorable to definite reforms, and emphasized the need of general education on all public questions for the more intelligent use of the ballot. The convention of 1901 decided, "It shall be the duty of all local unions of the Western Labor Union to look up the records of all nominees for public offices, national, state, or municipal, and give their full support to those who are working in our behalf, unless the unions have decided to put forth

⁵⁵ *Journal of United Labor*, Vol. X, Nos. 43-49.

⁵⁶ *Ibid.*, Vol. XIII, No. 2.

an entire labor ticket."⁸⁷ Finally, in 1902, a more radical step was taken when a political platform was adopted by a vote of 56 to 13.⁸⁸ According to this resolution, the union is in favor of National Socialism and adopts the platform of the Socialist party of America in its entirety.

That the American Labor Union is a strong advocate of extreme socialistic views is clearly shown by the tenor of the leading articles which appear from time to time in its official journal.⁸⁹ The present attitude of the American Labor Union toward political activity has been briefly stated by the editor of the official journal in the following words: "The American Labor Union, where one man, one vote, is the rule, has twice gone on record in favor of united class conscious political action along the lines of the socialistic platform, as the only remedy for industrial ills. . . . But this action was entirely educational in character and no man forfeits his membership by a refusal to comply."⁹⁰

The American Federation of Labor, on the contrary, has successfully resisted all attempts to engage the organization in political activity. Freedom from political affiliation has not been maintained without a struggle on the part of the more conservative element in the Federation. The first convention held in Pittsburg declared: "We recommend all trades and labor organizations to secure proper representation in all law-making bodies by means of the ballot, and to use all honorable measures by which this result can be accomplished."⁹¹ At every convention of the American Federation, and at almost every meeting of local, state and national unions, the same question has arisen in some form or other. As long as the pressure upon the Federation to declare for independent action did not become annoying, a positive declaration of principles was withheld. But when

⁸⁷ Constitution, American Labor Union, 1901, p. 5.

⁸⁸ Proceedings, American Labor Union, 1902, pp. 57-61.

⁸⁹ American Labor Union Journal, October 30, 1902.

⁹⁰ Ibid., January 7, 1904.

⁹¹ Federation of Organized Trades and Labor Unions, First Annual Session, 1881, p. 4.

the Socialist Labor Party sought admission into the Federation of Labor, the application was rejected on the ground that no political party, as a party, has the right to be represented in the councils of trade unions. Subsequent efforts on the part of radical trade organizations became so persistent that the New York Convention of 1895 declared: "Party politics, whether they be Democratic, Republican, Socialistic, Populistic, Prohibition, or any other, shall have no place in the convention of the American Federation of Labor."⁵² Succeeding attempts to commit the organization to a definite program have been defeated, so that at the present time the American Federation stands independent of party affiliations.⁵³

The Knights of Labor, regarding legislative activity as incidental to the more direct policy of party political action, have nevertheless shown vigor in securing labor legislation. The central executive has confined most of its attention to Washington in order to watch congressional legislation,⁵⁴ while the district and state assemblies have used their influence in state and local legislatures.⁵⁵ Largely through

⁵² Constitution, American Federation of Labor, 1896, Art. III, sec. 8.

⁵³ The most persistent attempts have been made by the socialistic element in the conventions of the American Federation. In 1894 and again in 1902, the sentiment with regard to independent political action was fairly divided; but in the conventions of 1895, 1900, 1903, and 1904, resolutions with party political activity as the end in view were decisively defeated.

⁵⁴ The Cleveland session of 1886, for instance, adopted a resolution instructing the General Master Workman to appoint a legislative committee of three with headquarters at Washington during the sessions of Congress.

⁵⁵ State assemblies seem never to have played a very important part in the Knights of Labor. The secretary-treasurer reported to the Tenth Annual Session held at Richmond in 1886, "Under the present law they (state assemblies) are a failure and are not thoroughly understood, some claiming to have jurisdiction over district assemblies, which is not the case. State assemblies to be of service to the Order should be organized in every state from representatives of the several district assemblies and local assemblies attached to the General Assembly, where all matters appertaining to the Order in the state should first be brought for settlement." The state assembly was designed apparently to relieve the duties of the gen-

these efforts, the Knights of Labor by successfully arousing public opinion on frequent occasions have made the subsequent task of the American Federation less difficult. Among the more important reforms proposed by the Knights have been: direct legislation, the initiative and referendum, a bureau of labor statistics, abolition of the contract system on national, state and municipal works, compulsory arbitration, prohibition of child labor under the age of fifteen, and government ownership of telegraphs, telephones, and railroads.

As the American Federation of Labor wields little authority over the national unions, and has no way to secure unity of sentiment on any political issue, the probable result of independent political action would be internal strife with danger of complete disruption. Accordingly, the Federation has chosen to advocate labor legislation and to take an active part in any move leading to the betterment of labor conditions rather than to participate as an organization in national and state elections. Each convention directs attention to special reforms, whereupon the executive council frames a bill embodying the necessary provisions, and champions its course. The legislative committee maintained at Washington is especially helpful in promoting this work. Among the chief reforms so advocated in recent years have been the national eight-hour law, Chinese exclusion, the initiative and referendum, trust legislation, anti-injunction laws, and the abolition of convict and imported contract labor. In addition to these efforts, the American Federation has sought to prevent legislation conceived harmful to the working classes in general, such as anti-scalping laws, compulsory arbitration, and compulsory trade union incorporation.

Analogous to the functions exercised at Washington by the national federation are the reform activities of state

eral executive board, to be in the state the official representative of the Order, and to take an active interest in state politics; see *Proceedings, Tenth Regular Session, General Assembly, 1886*, pp. 47-48.

and municipal alliances.⁶⁶ The more radical state and local federations conceive the ideal industrial state to involve "the abolition of the wage system and the substitution of collective ownership by the people of all the means of production and distribution." The socialistic element urges organized labor to take part as a unit in all state and local elections. The more conservative local bodies, following the example of the national federation, desire to exclude party politics from the meeting-rooms, and to control the labor vote in the interest of those candidates who pronounce themselves labor sympathizers. Thus far the prevalence of the more conservative sentiment accounts for the emphasis placed on labor legislation.

From 1886, the year of greatest prosperity, the Knights of Labor have steadily declined in membership and power.⁶⁷ The more important influences contributing to this result have been the complete failure of expensive sympathetic strikes, the activity displayed in political affairs, the presence of two distinct types of labor organizations in the Order,—the mixed district assembly and the national trade assembly, and finally, the extreme centralization of power in the hands of the General Assembly and the national officers. The American Labor Union, organized primarily as a federation of industrial unions, has run counter to the experiences of the past in its effort to make industrial forces politically supreme. Finally, in the activities of the American Federation are reflected something of that prudence and moderation which characterize the present industrial life of the East.⁶⁸ Contrary to the policies of the

⁶⁶ The president of the American Federation of Labor reported to the San Francisco convention of 1904, a membership of 32 state assemblies and 569 central labor unions.

⁶⁷ The Knights of Labor at the tenth regular session reported a membership of 702, 924 in good standing, July 1, 1886. The report of the general treasurer for July 1, 1886, to June 30, 1887, inclusive, showed total receipts of \$497,656.08 and total disbursements of \$491,683.91.

⁶⁸ The American Federation of Labor in January, 1905, had an enrollment of 118 national and international unions. The average membership of the affiliated unions for the year ending September

Knights of Labor and the American Labor Union, it has advocated the individual trade strike in preference to the general or sympathetic strike; it has repeatedly placed itself on record as opposed to political action; it has advanced the principle of organization according to trade; and, lastly, by guaranteeing to each national or international union complete jurisdiction over its own trade, has gained to a large extent the good will of the individual members.

30, 1904, was 1,676,000. The treasurer reported to the twenty-fourth annual convention, 1904, a total income of \$307,009.09 with total expenditure of \$203,991.15.

PART II.

TRADES COUNCILS.

CHAPTER I.

HISTORY.

Federations of related trades or "trades councils" appeared in the United States at a later period than general federations. The International Building Trades Council, organized in 1897, was probably the first successful attempt to federate, on a national scale, several district trades in a single organization.¹ More recently two other such national trades councils have been formed: The Metal Trades Federation, the constitution of which was adopted in January, 1903, and the Structural Building Trades Alliance, the first convention of which was held in August, 1904. In addition to the councils in the building trades and in the metal trades, printing trades councils exist in various places; but these organizations have remained local in character.² Attention will accordingly be confined largely to these three

¹ Prior to the convention of 1904, the organization was known as "The National Building Trades Council."

² More similar to the national trades council, however, is the Joint Conference Board established by the several national unions in the printing trades. This Board is composed of four representatives from the International Typographical Union, one representative from the International Printing Pressmen and Assistants' Union, one representative from the International Brotherhood of Bookbinders, one representative from the International Stereotypers' and Electrotypers' Union, and one representative from the International Photo-Engravers' Union. The officers of the Board are: a president, a vice-president, a secretary-treasurer, and such other officers as the Board may determine, with the qualification that no two executive officers represent one organization. The most recent meeting of the Board was held on January 13 and 14, 1905, in Indianapolis, Indiana; see *The International Bookbinder*, March, 1905.

organizations: (1) the International Building Trades Council; (2) the Metal Trades Federation, and (3) the Structural Building Trades Alliance.

As early as 1881 a plan to amalgamate local and national trade unions in the iron industry, the printing industry, etc., was proposed at the first annual convention of the Federation of Organized Trades and Labor Unions. The scheme had already received the unanimous approval of the "Representative Assembly of Trades and Labor Unions of the Pacific Coast." A similar suggestion appeared in the president's report to the American Federation of Labor in 1888.³ The plan provided that each industry should have a representative on the executive council of the Federation of Labor.⁴ Although this project did not meet with popular favor at the time, the community of interests in the building trades prompted the formation of building trades sections or building trades councils in various cities. In some places these councils worked in harmony with the local federation as part of the central labor union. In other places, either the city federation made no provision for allied trades sections, or the trades councils preferred to remain independent. Where the central labor union and the trades council were entirely disconnected, disputes frequently arose over the respective jurisdictional claims of the two bodies.

The national federation of these local councils was the result of a corresponding development in the building industry itself. The rise of large contractors who extended their activities to many important cities, changed the conditions in the industry. As long as building operations were carried on by home contractors, local building trades councils answered the purpose. But many workmen in the building industry no longer depended exclusively on their

³ Proceedings, American Federation of Labor, 1888, p. 18.

⁴ The adoption of this plan would also have secured the autonomy of each trade and industrial division, and would have removed one objection often made to the present government of the American Federation,—the non-representative character of the executive council.

home city for a livelihood, but found it necessary to travel from place to place. Similarly, men working in different cities at the same time were often employed by the same large contractor. To meet these new conditions and to cope more successfully with building trade problems, a national affiliation of trade councils was proposed.

In the early part of 1897 the building trades council of St. Louis, which for some years had been instrumental in preventing trade strikes and promoting a more friendly feeling between employer and employee, through its secretary, Mr. H. W. Steinbiss, declared itself in favor of extending this activity by the formation of a national council to be composed of the various local trades councils. The Amalgamated Sheet Metal Workers' International Union was the first to indorse the new movement, and elected two delegates to represent the union at the proposed convention. Owing to unfavorable industrial conditions, however, the matter was postponed until October 20, 1897, when a call was issued for a convention of the various trades councils, to be held in St. Louis on December 20, 1897. Representation in the convention was to be upon the following basis: each building trades council to be entitled to one delegate for each trade represented in the council, and to one vote for each affiliated trade, regardless of the number of its delegates attending the convention.

In response to the call, twenty-eight delegates assembled and formed the National Building Trades Council of America, with headquarters at St. Louis. Among the organizations represented at the first convention were the building trades councils of Chicago, Ill.; St. Louis, Mo.; Washington, D. C.; Pittsburg, Pa.; Milwaukee, Wis.; Toledo, Ohio; Kansas City, Mo., and East St. Louis, Ill. Other councils sent letters to the convention promising affiliation.⁵

⁵ Weekly Compendium Building Trades Council of St. Louis and Vicinity, Aug. 29, 1897. The call sent out by the St. Louis Trades

The secretary at the second annual convention, in 1899, reported a membership of fourteen organizations, and at the third annual convention a membership of three national organizations,—the Brotherhood of Painters and Decorators of America, National Association of Steam and Hot Water Fitters and Helpers, National Brotherhood of Electrical Workers of America,—seventeen building trades councils, and six local unions.⁶ Finally, at the sixth annual convention in 1903 the membership was reported as consisting of seven national and international unions, seventy-six building trades councils and nineteen local unions, an increase of fifty-four organizations during the year.⁷ At the present time (January, 1905) the International Building Trades Council comprises nine national and international unions, twenty-eight building trades councils and five local unions.⁸

Partly to counteract the influence of the Building Trades Council, the American Federation of Labor at the convention of 1900 decided "to provide for the formation of a permanent organization to be known as a General Section

Council made no provision for the recognition of international unions, consequently the Sheet Metal Workers who had already elected delegates did not forward any credentials, and did not affiliate until October 2, 1900. The first international trade union admitted was the Brotherhood of Painters and Decorators of America, which received its charter from the National Building Trades Council on February 1, 1898. The Painters and Decorators, however, were represented at the first convention by their former president, who was seated as a regular delegate by a vote of the convention.

⁶Proceedings, National Building Trades Council, Third Annual Convention, 1900, pp. 11-12.

⁷Ibid., Sixth Annual Convention, 1903, pp. 10-11.

⁸The international unions are: Amalgamated Sheet Metal Workers; American Brotherhood of Cement Workers; International Brotherhood of Electrical Workers; International Brotherhood of Composition Roofers, Damp and Waterproof Workers; International Slate and Tile Roofers' Union; International Association of Steam, Hot Water and Power Pipe Fitters and Helpers; National Association of Heat, Frost and General Insulators and Asbestos Workers; Stone Masons' International Union; International Laborers' Union. The chief local councils are those of Denver, Milwaukee, and St. Louis, while the councils of many other large cities are unaffiliated at the present time; see *The Labor Compendium*, January, 1905, pp. 10-11.

of the Building Trades."⁹ All disputes and grievances arising between national and local unions of the building trades were to be referred to this organization for settlement.¹⁰ Again in 1902 the Federation of Labor declared: "We hold that the interests of the trade union movement will be promoted by closely allied and sub-divided crafts giving consideration to amalgamation and to the organization of district and national trade councils to which shall be referred questions in dispute and which shall be adjusted within allied crafts' lines."¹¹

Although the International Building Trades Council from time to time expressed a desire to establish such relations with the American Federation as now exist in many places between central labor unions and local trades councils, the American Federation has been unwilling to accept this arrangement, since it regards the Building Trades Council as a dual organization inimical to the general federation. On the other hand, the International Building Trades Council has resented the hostile attitude of the Federation and urged "that in the future the International Building Trades Council and local councils be more aggressive and resist to the utmost the encroachments being made by the American Federation of Labor."¹²

In 1900 representatives of the various metal trades held meetings for the purpose of forming a national federation. In December a temporary organization with James Creamer of the International Association of Machinists as president,

* The president of the American Federation in his annual report for 1900 declared: "The error into which the building trades councils have fallen is that they have failed to ally themselves with the American Federation of Labor; and having formed themselves on a national basis, not only hold themselves aloof, but in many instances have proven antagonistic to the very purposes of the American Federation of Labor" (Report of Proceedings, 1900, p. 9); see also Report of Proceedings, Sixth Annual Convention, National Building Trades Council, 1903, p. 12.

⁹ Proceedings, American Federation of Labor, 1900, p. 211.

¹⁰ Ibid., 1902, p. 143.

¹¹ Proceedings, International Building Trades Council, 1902, p. 100.

and L. R. Thomas of the Patternmakers' League, as secretary, was effected, and the following resolution adopted:

WHEREAS, At a meeting of the representatives of the Machinists, Iron Molders, Pattern Makers, Metal Polishers, Buffers, Platers and Brass Workers, Blacksmiths, Boiler Makers, Ship Builders, Allied Metal Mechanics, Core Makers, and Electrical Workers in attendance upon the Twentieth Annual Convention of the American Federation of Labor, there developed a unanimous sentiment in favor of the formation of a Metal Trades Federation; therefore, be it

Resolved, That the above organizations be requested to send two representatives, fully instructed how to perfect and render practicable said Metal Trades Federation to a convention to be held in St. Louis at such time, in July, 1901, as may be mutually agreed upon.¹³

The following year further conferences were held with a view to permanent organization, and finally in January, 1903, a constitution and by-laws were adopted.¹⁴

The objects of the Association as stated in its declaration of principles were: "To foster a feeling of friendship between the organizations engaged in the metal trades industry and its kindred branches; to discuss ways and means for bettering the condition and advancing the interest of the organizations connected with this body; to stimulate the individual membership of the different organizations to an active interest in each other, . . . to promote the settlement of disputes by arbitration, thereby discouraging strikes."¹⁵

In June, 1903, eight national unions and forty-eight metal trades councils or metal trades sections in as many cities were affiliated with the Federation.¹⁶ In his report for the year ending July 1, 1904, the president of the International Association of Machinists said: "The Metal Trades Federation of North America maintains an office and a secretary at Washington, D. C. Several national metal trades organizations as yet have not seen their way clear to affiliate with

¹³ Proceedings, American Federation of Labor, 1900, p. 169.

¹⁴ *Ibid.*, 1901, p. 18.

¹⁵ Constitution, Metal Trades Federation, 1903, Art. I, sec. 2.

¹⁶ Circular issued from international headquarters, Washington, D. C., and signed by James O'Connell, president, and E. J. Lynch, secretary-treasurer.

the Metal Trades Federation of North America. I regret this exceedingly, for I have personally devoted a great amount of my time trying to bring about a closer affiliation between the national metal trades organizations. The national organizations not affiliated are the Iron Molders' Union, Brotherhood of Boiler Makers and Iron Ship Builders, and the Pattern Makers' League."¹⁷

On August 26, 1903, a conference of representatives of structural building trades was held in Indianapolis, Ind., at the headquarters of the United Brotherhood of Carpenters and Joiners of America. It was decided to establish a national alliance and, as a preliminary step, to issue a call to all structural building trades for a general convention to be held in Indianapolis on October 8, 1903. The call was signed by the officers of the Brotherhood of Painters, Decorators and Paperhangers; Bricklayers' and Masons' International Union; International Association of Journeymen Plumbers, Gas and Steam Fitters and Steam Fitters' Helpers; Hod Carriers' and Building Laborers' International Union; Brotherhood of Carpenters and Joiners; and Bridge and Structural Iron Workers' International Association.

The conference, after a three days' session, adopted a tentative constitution together with the following resolution:

WHEREAS, Ever since the formal conference of the Structural Building Trades, held in this city (Indianapolis) August 26, 1903, representatives of organized labor outside of the building trades have claimed and openly expressed their opinion that this body was being formed in opposition and antagonistic to the American Federation of Labor, and the National Building Trades Council. . . .

Resolved, That this Convention go on record and thereby give an expression of their friendship toward the American Federation of Labor and the National Building Trades Council, and will give any assistance we possibly can to either body, etc."¹⁸

¹⁷ Machinists' Monthly Journal, September, 1904, p. 789.

¹⁸ The Carpenter, November, 1903, p. 3.

The constitution and by-laws were submitted to a referendum vote of the unions represented, and all voted to affiliate with the exception of the Bricklayers' and Masons' Union and the Electrical Workers. Accordingly, in August, 1904, the first annual convention of the Structural Building Trades Alliance assembled in Indianapolis and elected officers.¹⁹

The aims of the alliance were declared to be: To establish local and international boards of arbitration, to give international sympathetic support where local boards fail in their efforts to adjust difficulties, to uphold trade autonomy, to maintain agreements, to avoid and discourage strikes if possible, to oppose the formation of dual and rival bodies, to encourage and maintain friendly relations with existing central organizations.²⁰ At the present time (January, 1905) six international organizations are affiliated with the alliance, and four others have been declared eligible to membership, viz., the Bricklayers and Masons, Operative Plasterers, Electrical Workers, and Sheet Metal Workers.²¹

Aside from the foregoing federations of related trades, the railway brotherhoods have formed alliances from time to time, which have been short-lived. On June 6, 1889, the grand officers of three orders of railway employees met at Chicago and formed "The Supreme Council of the United Orders of Railway Employees." The following year the Supreme Council, including representatives of the Locomotive Firemen, the Railroad Brakemen, the Switchmen's Mutual Aid Association and the Brotherhood of Railway Conductors met in Chicago. At the next session, 1891, the Brotherhood of Railroad Trainmen was expelled from the Supreme Council, and finally, on June 20, 1892, at the fourth annual meeting, the Council disbanded.

¹⁹ Indianapolis News, August 12, 1904; also Painters' Journal, Sept., 1904, Vol. XVIII, No. 9.

²⁰ Constitution, Structural Building Trades Alliance, 1904, Preamble.

²¹ The Carpenter, March, 1905, pp. 5-6.

A meeting of representatives from the various railway brotherhoods, held at Cedar Rapids, Iowa, April 6, 1893, resulted in the adoption of the so-called Cedar Rapids plan. The articles of federation provided for the formation of general grievance committees representing the different brotherhoods, to whom should be submitted for adjustment all questions in dispute. Should a strike be inaugurated, the chief executive immediately concerned became the recognized leader, and had power to declare the strike off with the consent of the general federated committee. Subsequent attempts to form a closer alliance among the railroad brotherhoods have met with little permanent success. The Federation of American Railway Employees, organized in April, 1898, at first gave promise of an important career, but soon fell apart, and by 1900 had ceased to exist.²²

²² Locomotive Firemen's Magazine, July, 1889, p. 627; Aug., 1890, p. 708; Aug., 1892, p. 733; June, 1893, p. 511.

CHAPTER II.

STRUCTURE.

The International Building Trades Council, while similar in some respects to the Metal Trades Federation and the Structural Building Trades Alliance, differs from them in one important particular. The first is primarily an alliance of local building trades councils, whereas the Metal Trades Federation and the Structural Building Trades Alliance are primarily federations of national trade unions. The preamble to the constitution of the International Building Trades Council declares that local trades councils are the "most fruitful means presented to improve the condition of the men engaged in the building industry."¹ National trade unions, however, are recognized in the following section of the constitution: "This organization . . . shall be composed of Building Trades Councils, National Building Trades Unions and Local Unions of Building Trades who have no national organization."²

The Metal Trades Federation has jurisdiction over local trades councils wherever organized.³ Metal trades sections or councils are formed from neighboring locals, and are free to govern themselves as long as their laws accord with the general constitution of the national federation.⁴ The Structural Building Trades Alliance is "composed only of national and international unions of structural building tradesmen," although it encourages the formation of "local alliances of building tradesmen" which have no representation in the annual meeting of the alliance.⁵

¹ Constitution, National Building Trades Council, 1903, Preamble.

² Ibid., Art. I, sec. 1.

³ Constitution, Metal Trades Federation, 1903, Art. I, sec. 3; Art. II, sec. 1.

⁴ Ibid., Art. XXIII.

⁵ Constitution, Structural Building Trades Alliance, 1904, Art. I, sec. 1; Art. II, sec. 1.

Thus two distinct forms of labor organizations make up the national trades council,—the national trade union and the local trades council. As all national councils recognize the local council, some description of the local trades council or section is necessary before the working of the national council may be properly understood.*

Qualifications for membership in the local allied trades councils vary in different places, but usually include a general provision that delegates must be chosen from bona fide trade organizations whose members are engaged in one of the allied trades. Any union, for example, desiring affiliation with a local building trades council affiliated with the International Council must present an application in this form:

To the Officers and Members of the Building Trades Council:
The above-named organization having thoroughly considered your objects and laws respectfully petition for affiliation with your honorable body. Nothing in our constitution, by-laws, or working rules conflicts with those of your council, and if admitted we will cheerfully comply with and abide by your laws and regulations. Our initiation fee is \$. . . We have a total membership of . . . We work . . . hours a day and our wage is . . . cents per hour, . . . cents per hour for overtime and night work, and . . . cents per hour for Sundays and holidays. (No member will be allowed to work on Labor Day—the first Monday in September.)

Accompanying the application, which is at once submitted to the executive board, is a definite statement of the jurisdiction claimed by the union, together with a copy of its trade rules. If the executive board finds that the union represents a bona fide building trade and does not conflict with the jurisdiction or trade rules of any other union in the council, it reports favorably on the application. A majority vote of all delegates at a meeting of the council decides the question of admission.

* A distinction between trades councils and trades sections may be noted. The building trades council is independent usually of any other local body, and may affiliate directly with the national council. A trades section is formed from trades in a central labor union and has an indirect connection with the American Federation of Labor.

Representation in the local council is usually left to local determination. Thus, the general constitution of the local building trades councils affiliated with the International Council does not regulate the number of delegates to the local council, but provides that when a vote is taken on any proposition each delegate present is entitled to cast his ballot as an individual, except in cases where a "trade" vote is necessary, when each trade votes as a unit.⁷ Among the building trades councils unaffiliated with the International Building Trades Council various systems of representation prevail. The Chicago Building Trades Council, founded in 1890, and incorporated under the laws of Illinois in 1892, provides for representation of the affiliated unions upon the following basis: For each union of one hundred members or less, five delegates; for each additional one hundred up to and including five hundred members, an additional delegate; for every two hundred and fifty over five hundred members up to and including one thousand, another delegate, etc. No union, however, has the right to send to the Council more than twenty delegates.⁸

Some councils, on the other hand, favor a system of representation which does not take into account the membership of the unions, but gives each union the same number of representatives. The constitution of the building trades council of Cleveland and vicinity, for example, declares: "This organization shall consist of three delegates from all trade organizations connected with the erection, finishing or embellishment of buildings."⁹

⁷ If the trade delegation is divided, the members are polled, and their number for and against is counted as a fraction of one vote for and against the question before the council; see Constitution, Local Building Trades Councils affiliated with the National Building Trades Council of America, 1902, Art. II, sec. 1 and 3.

⁸ George: *The Chicago Building Trades Conflict of 1900*. *Quarterly Journal of Economics*, 1900, p. 349.

⁹ Constitution, Building Trades Council of Cleveland and Vicinity, 1900, Art. I, sec. 1; see also, Constitution, Building Trades Council of Detroit, 1900, Art. VII, sec. 4. According to the agreement among the five international unions in the printing trades, allied printing trades councils are composed of three delegates from each local

The elective officers of local trades councils are commonly a president, vice-president, corresponding or recording secretary, financial secretary, treasurer, sergeant-at-arms, and a board of at least three trustees. In addition to these officials, the general constitution for local building trades councils provides for an executive board of five members, an organization committee of three members, and a law and legislative committee of at least three members.¹⁰ Officers entering upon their duties are required to take an obligation as to faithful performance of duty.

The most important single official of local councils is the president. He presides over all meetings, except when questions relating to his own trade are considered, and exercises general supervision over the officers and committees.¹¹ The executive board considers grievances of the trades represented, and endeavors to settle differences between employer and employee without resort to a strike. The board is sometimes given power to call meetings of the council.¹² In some councils a special committee on grievances is ap-

union chartered by one of the parties to the agreement. A further provision entitles each delegate at a council meeting, who ordinarily has but one vote, to cast additional votes, based on membership of the local unions, whenever a roll-call is demanded on the question of raising revenue or electing officers. The additional votes are allowed in the following manner: for fifty members of the local represented, one vote; for each additional fifty members or major fraction thereof, up to three hundred, one vote; for the next two hundred or major fraction thereof, one vote, etc.; see *The International Bookbinder*, March, 1905.

¹⁰General Constitution, Local Building Trades Councils affiliated with the National Building Trades Councils, 1902, Art. III, sec. 1.

¹¹The other local officials are, commonly, a vice-president, a secretary, a treasurer, and a sergeant-at-arms.

¹²The local board of governors in the Structural Building Trades Alliance is composed of one member from each national and international union affiliated, who is appointed by his union to act temporarily as its representative in a particular locality. When the local alliance has been firmly established, the local union of each trade represented therein may elect their own representative upon the local board of governors. This differentiates the board of governors in the Trades Alliance from the executive board of most building trades councils whose members are chosen by majority vote of the delegates attending an election; see *Constitution, Structural Building Trades Alliance*, 1905, Art. IX, sec. 2.

pointed to investigate any case submitted to it, and, when requested, uses its influence to adjust the trouble.¹³ Other standing committees that figure largely in the activities of trades councils are: (1) the committee on organization, to assist in the organization of new unions, and (2) the legislative committee "to secure the adoption by legislative bodies of such legislation as shall seem best for the interests of the laboring people."¹⁴

Finally, the board of business agents is in some respects the most important body in the local council. It is composed of representatives from the different trades, who meet several times a week for the purpose of considering questions of general interest to the industry.¹⁵ The chief work of this board is the supervision of trade rules and the working card, and the adjustment of trade grievances. If trouble occurs in any shop, or on any job, the business agent of the trade endeavors to adjust the difficulty without delay. Failing in this, he presents the grievance to the board of business agents which in turn submits the whole question to the local trade council for final decision.¹⁶

The annual convention is the chief organ of government in national trades councils. Two distinct systems of representation are in use. In the International Building Trades Council representation is based primarily on local building trades councils. Each local council is entitled to one delegate for each trade represented.¹⁷ Prior to the annual convention of 1904, each local council was entitled to one vote

¹³ Constitution, Building Trades Council of Cleveland, O., 1900, Art. VII, sec. 3.

¹⁴ General Constitution, Local Building Trades Councils, 1902, Art. V, sec. 10.

¹⁵ These members are usually salaried and devote all or a great part of their time to trade affairs.

¹⁶ See, for example, Constitution, Building Material Trades Council of Chicago and Cook Co., 1901, Art. XI, secs. 1-4. This local federation of related trades is not connected with either the building or metal trades alliance. Its constitution declares: "No trades engaged in the erection or alteration of buildings shall be eligible to this council."

¹⁷ Constitution, National Building Trades Council, 1903, Art. IV, secs. 1 and 3.

for each trade in the council, regardless of the number of delegates in the convention. In that year, however, an amendment to the constitution declared: "No delegate, either from a local union or council, will be entitled to more than one vote. No proxy vote will be allowed, except in the case of the general secretary-treasurer, who, if not returned as a delegate, shall be allowed one proxy."¹⁸ International unions until 1905 were allowed only one vote.¹⁹ The eighth annual convention held in September, 1905, amended the constitution so that in future each national or international union will be allowed three delegates for one thousand members or less and an additional delegate for each five thousand members or major fraction thereof. This partly removes a principal objection of the national unions to the structure of the council.²⁰

The system just described is materially different from the one adopted by the Metal Trades Federation and the Structural Building Trades Alliance. Both of these make the national union the basis of representation, and in the Alliance, instead of representation being given the local alliances, five delegates are sent from each national or international organization.²¹ Finally, it may be noted that each of these systems of representation differs from that of the American Federation of Labor, which gives a proportional voting strength to its national and international unions, and one vote to each central labor union, without regard to the number of trades represented therein.

The power of the national organization over the local branches is less perhaps in the allied trades federation than

¹⁸ Proceedings, International Building Trades Council, Seventh Annual Convention, in *The Labor Compendium*, Sept. 25, 1904.

¹⁹ Constitution, International Building Trades Council, 1903, Art. IV, sec. 3.

²⁰ *Ibid.*, 1905, Art. IV, sec. 1.

²¹ Constitution, Structural Building Trades Alliance, 1904, Art. III, sec. 2. On the other hand, the Metal Trades Federation provides (Constitution, 1904, Art. IV, sec. 1): "A quorum for the transaction of business at the annual or extraordinary session shall be representatives from five national or international unions, and one delegate from each affiliated council."

in the general federation and much inferior to that of the industrial union. It cannot modify trade regulations unless one council interferes with another council, or one trade with another trade, in which case the federation undertakes to adjust the difficulty. The International Building Trades Council is strongly in favor of trade autonomy, as is shown by the following resolution adopted at the sixth annual convention :

WHEREAS, Experience has shown that trade autonomy is best suited to advance the cause of organized labor and any departure from this course is likely to lead to ruin and disaster, as was clearly shown in the Knights of Labor, the American Labor Union and other organizations that favored the industrial idea of organization, therefore, be it

Resolved, By the National Building Trades Council, . . . that it hereby declares itself in favor of and committed to strict trade autonomy and recognizes . . . the rights of any or each trade to their own separate and distinct organization without interference or hindrance from any other organization.

The judicial and administrative powers of the national council are delegated to a general executive board. In the International Building Trades Council this board is composed of the president and the seven vice-presidents;²² in the Structural Building Trades Alliance and the Metal Trades Federation the board comprises the executive officer of each affiliated national and international union.²³

The allied trades council represents an intermediate form of organization between a general trades federation like the American Federation of Labor on the one side and an industrial union like the United Mine Workers on the other. The general federation vests little authority, comparatively speaking, in the hands of the executive board, while the industrial union gives large power to its national officials. The problem in the administration of the trades council has

²² Previous to the convention of 1904, the secretary-treasurer was perhaps the most important member of the general executive board.

²³ In the Structural Building Trades Alliance this board is known as the board of governors, and in the Metal Trades Federation as the executive committee.

thus been to grant sufficient power to the central executive for the efficient performance of duties, and at the same time to maintain the complete autonomy of the constituent elements.²⁴

Next in importance to the national convention and the executive council in allied trades federations is the president. His duties do not differ to any large extent from those ordinarily attached to the office. He presides at all conventions, exercises general supervision over the federation, and signs all official documents. In the International Building Trades Council he decides all points of law not clearly defined by the constitution, and with the consent of the general executive board issues all charters to affiliated organizations. In the Metal Trades Federation, the president and the secretary-treasurer, "with the executive council and the different national and international officers of affiliated bodies," are the general organizers.²⁵

The immediate check on the president and the secretary-treasurer is the executive board.²⁶ Behind the executive board and exerting a conservative influence over its members, as well as over the other elective officials, is the general convention. Any failure on the part of a national officer therefore to satisfy the representatives of the different organizations is likely to result in his defeat at a succeeding election.

The revenues for the support of national allied trades councils are derived mainly from regular monthly or quarterly assessments on the membership. The International Building Trades Council levies on local councils of five hundred members or less a tax of fifteen dollars each quarter; on councils with a membership of more than five hundred and less than one thousand, a tax of twenty-five dollars per

²⁴ Constitution, National Building Trades Council, 1903, Art. X, sec. 1.

²⁵ Constitution, Metal Trades Federation, 1904, Art. XI, sec. 1.

²⁶ See, for example, the Constitution of the International Building Trades Council, 1904, Art. VII, secs. 1, 3.

quarter,²⁷ and on councils of more than one thousand members, twenty-five dollars for the first thousand and two and one-half dollars for each additional five hundred members. The Structural Building Trades Alliance imposes a per capita tax of one-quarter of one cent per member per month upon the affiliated national and international unions.²⁸ Finally, the Metal Trades Federation meets its expenses by an assessment of twenty-five dollars per month on each of the national organizations in the alliance. In addition to these assessments, the International Building Trades Council receives a monthly per capita tax of one-fourth cent per member from each affiliated national or international union;²⁹ and the Metal Trades Federation a monthly payment of five dollars from each local metal trades section, to be used exclusively for organizing purposes. Other sources of revenue to the councils are charter fees, initiation fees, charges for supplies, etc.

²⁷ Local unions with neither national union nor local trades council affiliation pay a per capita tax of five cents per member per month. Prior to the Convention of 1905, each local council paid a per capita tax of three-quarters of a cent per month for each member of affiliated unions.

²⁸ Should the funds of the alliance at any time be insufficient to meet its expenses, the board of governors are directed to instruct the executive boards of affiliated nationals to levy an assessment sufficient to supply the treasury with the necessary amount.

²⁹ Prior to the convention of 1905, the International Council received \$10 per capita each year from the national unions.

CHAPTER III.

FUNCTIONS.

Aside from the more general activities involved in the closer association of trades in a single industry, allied trades councils seek to perform three important functions: (a) the settlement of jurisdictional disputes, (b) the association of allied trades in securing more favorable conditions of work, particularly (c) through the more extended use of the sympathetic strike.¹ Some brief attention will be paid to each of these functions.

(a) Under the administrative system of the American Federation of Labor the executive officers are largely responsible for the execution of the trade policies agreed upon at the annual convention. In 1904 these officials represented the following groups of unionists: Cigarmakers, granite cutters, miners, machinists, clerks, wood workers, glass bottle blowers, tailors, plumbers, longshoremen and printers. The non-representative character of the executive council, so far as the building trades were concerned, was one of the prime reasons for the establishment of an independent national council with an executive board composed entirely of men familiar with building trades problems.²

The officials of the American Federation have strongly opposed this independent activity of the International Build-

¹ A fourth element entering prominently into the activities of printing trades councils is the more effective use of the union label; see p. 104.

² Labor Compendium, May 12, 1901. This objection to the American Federation would be partly if not completely overcome by the formation of national industrial alliances within the Federation of Labor. At the present time one national federation of allied trades has been formed under the American Federation of Labor and similar alliances are contemplated. The Metal Trades Federation of America, as its constitution declares, "is composed of those organizations whose members are connected with each other through the metal industry or such kindred organizations."

ing Trades Council. In his report to the convention of 1901, the president declared: "There never yet existed two organizations claiming jurisdiction over the same territory, endeavoring to administer to its welfare, without rivalry and conflict arising therefrom. There is nothing for which a National Building Trades Council (or any other independent council) can declare which has not been more effectually emphasized and more clearly achieved by the American Federation of Labor. . . . When questions arise concerning building trades exclusively, beyond doubt the building trades unions should have unrestricted and undisputed jurisdiction. But when the interest and welfare of all the workers of a particular locality are involved, the decision of all the organized workers in the central labor unions, trade assemblies, etc., should have the determining voice."³

The foregoing statement sets forth the defects of an independent allied trades council and at the same time suggests a remedy. A federation like the International Building Trades Council standing alone is out of touch with organized labor in general, while the same federation, composed of local building trades sections and affiliated with a general alliance like the American Federation keeps in touch with the larger movement, and at the same time retains the most important advantage of an allied trades federation, that is to say, power to settle questions peculiar to the particular industry.

The claim has often been advanced by the International Building Trades Council, in answer to the attacks of the American Federation, that it is not a dual organization, since its field of work is narrower and more clearly defined. This position seems tenable in the absence of a national building trades alliance in the American Federation corresponding, for example, to the Metal Trades Federation. Such a position, however, cannot be successfully maintained

³ Proceedings, American Federation of Labor, 1901, pp. 17-18.

by the Structural Building Trades Alliance, notwithstanding the friendly attitude thus far assumed. The reasons given for bringing into existence a rival organization in the building trades, viz., the inability of the American Federation and the International Council to render necessary assistance to the mechanics in the building trades, and more especially their failure to settle jurisdictional disputes—were partly answered in a circular letter sent in 1904 to local unions of the United Brotherhood of Carpenters and Joiners, the chief promoters of the new alliance.⁴ The letter made an unsuccessful appeal to these local unions to reconsider the vote which affiliated the Carpenters and Joiners with the recently formed alliance: "If it is the honest intention of the promoters of the Structural Building Trades Alliance to improve the condition of the building trades . . . would it not be more reasonable to join the National Building Trades Council, . . . and if improvements are needed in its laws or in its management it certainly can be and should be done at the annual convention."

One of the longest and most important jurisdictional struggles occurred between the Carpenters and Joiners and the Amalgamated Wood Workers. The Brotherhood of Carpenters and Joiners of America was formed in 1881. The "joiner," known as the cabinet maker, planing mill or bench hand, performs the more delicate parts of the work. A jurisdictional decision rendered after the rival union had grown to some importance gave control over the joiners to the Amalgamated Wood Workers' Union, organized in 1896. The Carpenters and Joiners refused to accept the decision and prepared to resist any encroachment on the part of the Wood Workers. In 1902, the situation becom-

⁴ The Carpenter, November, 1903, pp. 3-4. The American Federation of Labor has declared: "The A. F. of L. shall hereafter refuse to decide questions of jurisdiction involving national or international affiliated bodies, unless by consent of the opposing interests and with the understanding that each is willing to accept the decision of the A. F. of L. as a final settlement of the dispute." Proceedings, American Federation of Labor, 1900, p. 184.

ing critical, the executive council of the American Federation decided that control over "cabinet makers, machine hands, and factory wood workers" belonged to the Amalgamated Wood Workers' International Union. The Carpenters and Joiners replied by declaring the Wood Workers a "scab" organization and practically established a boycott on their union card and union label.

Persistent attempts to settle jurisdictional disputes have been made by the building trades organizations, partly because their members have suffered most keenly from such conflicts, and partly because the existence of trades councils have made it possible to handle the problems more readily. To prevent as far as possible the recurrence of internal strife, the plan requiring the submission of a jurisdictional statement has been most commonly adopted. Each organization affiliated or desiring affiliation with a local building trades council is required to make a statement describing the work done by its members. This statement is read before successive meetings of the council and opportunity is given the delegates to raise objections. If the work claimed by a union seeking admission is also claimed by any union in the council, and the respective boundaries cannot be satisfactorily adjusted, the application for a charter is rejected.⁵

The International Building Trades Council in 1902, for instance, excluded the Amalgamated Wood Workers from membership on these very grounds. The furniture shops and factories of the country had formerly manufactured only household and office furniture. Later the trade extended to planing mills whose output consists of office and store fronts, fixtures, trimmings, etc. This activity brought the Amalgamated Wood Workers in direct competition with the United Brotherhood of Carpenters and Joiners who claimed jurisdiction over this class of work. Consequently,

⁵ Constitution, International Building Trades Council, 1903, Art. IV, secs. 7-8; also Constitution, Structural Building Trades Alliance, 1905, Art. V, sec. 1.

at the convention of 1902, the Council declared: "We regard the actions and attitude of the Amalgamated Wood Workers as antagonistic to the best interests of the various trades connected with the National Building Trades Council; therefore, the Amalgamated Wood Workers are denied admission to the National Council until such time as they are able to secure the same compensation and improved conditions as are being enjoyed by the other trades with whom they come in competition."

Another instance of this policy occurred in 1902, when the National Union of Elevator Constructors sought admission into the International Council. The rapid developments in the building industry during the past few years had brought into existence workmen who confined themselves to the construction of elevators. The engineers, the electrical workers, and the elevator constructors all claimed some part of the work. Consequently, when the National Association of Steam and Hot Water Fitters, the International Brotherhood of Electrical Workers and the International Union of Steam Engineers all opposed the application of the Elevator Constructors for membership, the general executive board of the council decided to withhold a charter until the Elevator Constructors had satisfactorily settled the claims of the opposing unions.⁶

A second method of lessening the difficulties arising from jurisdictional disputes is by arbitration. Local constitutions frequently declare that all differences between trades engaged in constructing or repairing a building must be adjusted off the work, and in no event may the dispute involve an employer who has no interest in the matter.⁷ When all efforts to settle a grievance have been made by the local authorities, the question is submitted to the general executive board. The decision of this board stands until the

⁶ Proceedings, National Building Trades Council, Fifth Annual Convention, 1902, pp. 93-94; Sixth Annual Convention, 1903, p. 25.

⁷ Constitution, Local Building Trades Councils affiliated with the National Building Trades Council, 1902, Art. VII, sec. 1.

annual convention which determines whether the action shall be final or not.

A recent development in the direction of greater centralization as a possible solution of the problem appears in the Structural Building Trades Alliance. This organization has established a representative board of governors with authority to adjudicate trade disputes. Any affiliated union with a grievance against another member of the council first refers the matter to the local committee, and if the dispute is not there settled, the union carries the grievance to the national board of governors which decides "all questions of trade disputes and jurisdiction."

(b) The national trades council is active in improving general working conditions in the trades represented in the industry by the formation of trade agreements between employers and employees. According to the testimony of a prominent labor official before the Industrial Commission, the main purpose of the International Council is to form local and national agreements between the employer and employee in order to avoid strikes and lockouts in so far as possible.⁸

From the standpoint of the employer, agreements serve a useful purpose in giving stability to the labor supply. But the parties to an agreement may be a single manufacturer and a strong combination of labor, in which case the employer is placed at a serious disadvantage in bargaining. Furthermore, in many localities competition among employers, building employers in particular, is so keen that one contractor in order to gain a temporary advantage, will make special concessions to the trade unions. To prevent this inequality in bargaining power, employers' associations have been formed. Where the agreements are thus made between contractors' associations and trade unions, more

⁸ Industrial Commission Report, 1901, Vol. XIV, p. 22. Owing to the practical difficulties in the way a national agreement with employers has never been made by the International Council, although conferences have been held with the secretary of the National Association of Builders with that end in view.

favorable terms to the employers may confidently be expected. For instance, the associations insist at times on a provision in their agreement which forbids a union man working for any one who is not a member of the contractors' association. Where, as frequently happens, the association embraces only a portion of the contractors in a single community, those who are not members are compelled to employ non-union men. The Bricklayers' and Masons' Union of St. Louis formed an agreement with the contractors of that city, stipulating that no member of the union should work for anyone not a member of the employers' association. A stone mason contractor engaged in general building operations was excluded from membership in the Master Bricklayers' Association by a law declaring ineligible any one not a practical bricklayer. Although the stone mason contractor favored union labor, and wished to join the Association, he had to employ non-union men as all union bricklayers were parties to the agreement.*

In some instances there is a willingness to form agreements with single unions in preference to councils. This is due probably, on the one hand, to the greater influence a national union has over its local unions in enforcing the terms of a trade agreement, and, on the other, to the aggressive attitude of councils in general or sympathetic strikes. In the lockout of 1900 in Chicago, the Building Contractors' Council refused to treat with the Building Trades Council, but agreed to meet representatives of the various unions for the purpose of forming separate trade agreements. The agreements required that the unions should sever all connection with the Council and should promise to remain independent of trade federations during the life of the agreement.

Among the more important objects which the trades council seeks to accomplish are the introduction of the eight-hour day, the use of the union label, the enforcement of the working card system and the use of arbitration.

* Industrial Commission Report, 1901, Vol. XIV, p. 24.

The shorter work-day figures prominently in all present activity and is a special aim of the International Building Trades Council.¹⁰ The interest of the Council in this reform sometimes extends beyond the membership where aid is given to other labor organizations in their efforts to obtain a shorter day.¹¹

The label as a trade device has been used effectively by allied printing trades councils and the metal trades, and to some extent by the allied building trades.¹² Owing to the peculiar nature of the building industry, a general label was considered at first to be impracticable.¹³ Later, at the Milwaukee Convention of 1899, the demand arose for a building trades label, and the fourth convention of the International Council in 1901 adopted a design to be used on buildings erected entirely by union labor.¹⁴ This label has since been placed on stores, dwellings and office buildings in several large cities.¹⁵

The working card may also be regarded as an important factor in the improvement of labor conditions. Thus, the constitution for local councils affiliated with the International Building Trades Council declares that "it shall be the duty of the Council to encourage agreements with contractors which will guarantee the employment only of mechanics and laborers in possession of the current quarterly

¹⁰ Constitution, Art. II, sec. 1.

¹¹ At the third annual convention, 1900, for example, a resolution was adopted pledging the support of the Council in the eight-hour demand made by the Boiler Makers and Iron Ship Builders of America.

¹² The Joint Conference Board of 1905, including representatives from the various trades in the printing industry has agreed upon the following regulations with respect to the label used by allied printing trades councils: "The International Typographical Union takes charge of all trades council labels, and loans them to local councils which act as its agents. No other label differing in design from the label now in use may be issued by any council, and no organization except the allied trades council in a single jurisdiction may authorize the use of the union label"; see *International Bookbinder*, March, 1905, p. 84.

¹³ *Weekly Compendium*, December 6, 1896.

¹⁴ *Proceedings*, Fourth Annual Convention, 1901, p. 125.

¹⁵ *Labor Compendium*, February 15, 1903.

working card of the national council.¹⁶ Under this law an agreement was formed in 1901 between a builder and the building trades council of St. Louis, according to which the employer promised to engage none but men who carried the working card issued by the Council, and to compel all sub-contractors to observe the same rule. In return the Council agreed to discourage strikes, although the sub-contractors might have trouble on another building with which the contractor had nothing to do.¹⁷

Again, in an agreement entered into in 1896 by the building trades council of Washington, D. C., provision was made: "In consideration of the organizations represented in the council, a central representative body of the District of Columbia, pledging their support to the undersigned concerns and individuals, the latter agree to employ none but local union labor, recognized as such by the said building trades council on all their work in the District of Columbia."¹⁸ It is claimed that when the working card is in this way made a condition of employment, it strengthens the union or council and serves as a prompt collector of dues. No member who is in arrears above a certain amount is in good standing or entitled to work under the agreement. The card of a painter, for example, does not allow him to work on a building unless he has in addition to his own trade union card the card of the International Council, and he cannot obtain the latter unless he has the former.¹⁹ On the other hand, employers' associations in some localities are opposed to any working card which bestows exclusive privileges on union men. Thus the employers of the building trades of Baltimore, in April, 1903, adopted the following rule: "We will not recognize any card or card system that

¹⁶ General Constitution, Local Councils affiliated with the National Building Trades Council, 1902, Art. VI, sec. 2.

¹⁷ Proceedings, International Building Trades Council, Fifth Convention, 1902, p. 46.

¹⁸ Proceedings, International Building Trades Council, 1900, p. 79.

¹⁹ National Building Trades Council: Its Origin, Objects, and Benefits, pp. 9-10.

will in any way abridge the rights and liberties of ourselves or any workmen in our employ, or any person who may be employed by us as sub-contractors in any capacity whatever."

Finally, the arbitration of differences receives considerable attention from the allied trades council. Local and national conferences with employers are held whenever possible, and every effort is put forth to uphold trade agreements and avoid strikes. The contract of the Washington trades council, referred to above, also provided for the settlement of all difficulties by arbitration. In case differences should arise between any employer and the council, and fail to be satisfactorily settled by the parties directly concerned, three representatives were to be chosen by the building trades council and three by the employers. These selected a seventh man if a majority failed to agree. The decision of this arbitration committee was binding on all parties to the dispute.²⁰

To make this system more general the national convention of 1898 adopted a resolution strongly indorsing joint conference boards composed of representatives of local councils and master builders, and urging all building trades councils to establish such conference or arbitration boards with employers' associations whenever practicable.²¹ Likewise, to increase the efficiency of the system, the general executive board of the national council is ready to act as an arbitration committee in any local trouble, whenever called upon by a building trades council or national union.²²

On the part of some employers there seems a strong sentiment in favor of joint arbitration boards. The builders' exchange of Memphis, Tennessee, declared: "If there is

²⁰ Third Annual Convention, International Building Trades Council, 1900, p. 79.

²¹ Labor Compendium, September 10, 1899; Constitution, National Building Trades Council, 1903, pp. 30-31.

²² A permanent conference board was established in 1899 between the Building Contractors' Association and the Building Trades Council of St. Louis.

one side to anything there must be another, and the time has gone by when one side can dictate the rights of the other side. Arbitration for the settlement of questions at issue between employers and workmen presupposes that both sides are willing to concede the rights of the other."²³ Again, in a report to the National Association of Builders, 1902, the secretary, Mr. John Herring, has said: "The unions are now regarded as powerful institutions by both press and public because of their splendid organization. The builders must achieve a like organization, strong and well poised. When they possess such organization all labor disputes can be arbitrated between them and the labor unions without recourse to strikes or lockouts."²⁴

(c) The third endeavor of allied trades councils is to secure effectiveness for the sympathetic strike in certain industries. The advocates of trades councils argue that the employer has little to fear from trade organizations acting independently, for some unions will remain at work while others in the same industry are on strike. On the other hand, general or sympathetic strikes,²⁵ involving all trades in a given industry, seriously cripple the employer and render him more willing to yield to the demands of the unions.²⁶

²³ Report of Committee appointed by the Builders' Exchange of Memphis, Tenn., p. 4.

²⁴ Labor Compendium, November 23, 1902.

²⁵ A distinction may be drawn between sympathetic and general strikes. A strike is "sympathetic" when trades whose members have no direct grievances are called out to aid other unions on strike. It becomes "general" when all the unions working under a common agreement stop work. In this case a violation of the agreement in any one part is equivalent to a violation of the whole agreement and affects all trades alike.

²⁶ In addition to this positive advantage, it is claimed that a general agreement between an employer and a trades council serves to reduce the number of strikes to a minimum. In the building trades, for instance, a strike on one section may tie up a large part of the industry, and under a system of separate trade agreements a trade strike may occur at any time. A general agreement, on the contrary, binds all trades in the council to work as a unit under common rules. Before a strike is declared on any portion of the work all the trades represented in the agreement are consulted.

The usual steps leading to an allied trades strike are as follows: A local union desiring the support of affiliated unions in a contemplated strike submits a statement of its grievance to the local council. The executive board of the council, or in some cases the board of business agents composed of paid representatives of the different unions, endeavors to adjust the trouble without resort to a strike. Failing in this, the executive committee in some instances, the local council in others, decides whether a general strike shall be called.²⁷ Any affiliated local or national union inaugurating a strike without the approval of the local council or the national executive board may expect little help from the various trades represented in the federation.

To strengthen the unions in the use of the sympathetic strike, the constitution of a trades council will sometimes require affiliated trades to insert in their agreements with their employers a clause permitting the unions to stop work

²⁷ A national agreement existed for a short time between the International Typographical Union, the International Printing Pressmen's Union, and the International Brotherhood of Bookbinders in which each union bound itself to help the others in time of need. This tripartite agreement was carried out through the local allied printing trades council which appointed a committee to adjust any difficulty with the employer, and in case of failure to report the result to the executive council of the various national unions. A sympathetic strike followed if the councils supported the grievance. (Industrial Commission's Report, 1900, Vol. VII, pp. 172-173; Vol. XVII, p. 81.)

More recently allied printing trades councils order sympathetic strikes under the following provisions agreed upon at the joint conference of 1905 among representatives of the five national unions in the printing industry: "When a sympathetic strike shall have been inaugurated by the parties to this agreement the initiating union shall pay those involved . . . the sum of \$7 per week to each married man involved, and \$5 per week to each single man or woman involved for the period of eight weeks, unless settlement is sooner effected."

"When a joint demand is made involving either a question of wages or hours, all conferences with proprietors shall be conducted by joint committees of parties to this agreement, and in case a strike or lockout shall result, each union shall provide strike benefits for its own members, and shall have no financial recourse on any of the allied unions"; see International Bookbinder, March, 1905, p. 84.

when called upon to do so by the local council.²⁸ In this way the alliance truly becomes a "combination of trades in defense of a single trade where a single trade feels itself aggrieved."²⁹ In many local sympathetic strikes the activity of the board of business agents is the dominant feature whenever quick and decisive action is demanded. In the building trades especially where delay until the next meeting of the central council often defeats the very end in view, administration of affairs has been entrusted to paid agents who devote all their time to the interests of the industry. The arbitrary power vested in the hands of this board by some local councils is one of the principal objections urged against the system.

From the standpoint of the employer, however, the activity of the business agent reveals certain advantages and also certain disadvantages. In the first place, he serves a useful purpose in bringing about uniform conditions of work. The employer in turn through this system of collective bargaining understands more thoroughly the attitude of his men and thereafter avoids unnecessary bargaining with them. But some employers are ready to take other means of securing the good will of the labor representative.³⁰ They have learned to conciliate the walking delegate or business agent and in return are permitted on occasion to employ non-union men, to use non-union material, or to dispense with the union label. On the other hand, the walking delegate is often in a position to injure an unfriendly employer by underhand methods. Sometimes the agent receives a certain sum from one contractor to call a strike on the building of a rival contractor. In the building trades especially, where it is highly important to complete a contract on time, it often rests with the business

²⁸ Constitution, Building Trades Council of Detroit and Vicinity, Art. XIX, sec. 10.

²⁹ Proceedings, International Building Trades Council, Third Annual Convention, 1900, pp. 52-56.

³⁰ Bulletin of the National Metal Trades Association, Vol. 11, p. 924.

agent to delay the work seriously in this way. Again, it frequently happens that money is extorted from the employer on condition that his men be allowed to work without union interference.

A typical instance of "blackmail" occurred in New York during the existence of the "United Board of Building Trades" organized in March, 1902. The Brotherhood of Painters having made an exclusive agreement with the employers of New York City applied for admission into the New York Building Trades Council. The Amalgamated Painters, a rival body with the support of the United Board, opposed the entrance of Brotherhood men and succeeded in causing a general strike on all work on which members of the Brotherhood of Painters were employed. A little later the United Board or Board of Delegates agreed to admit the Brotherhood of Painters into the building trades council and to call the strike off, on payment of a certain amount by employers to members of the board. After the employers had consented to this arrangement the men returned to work.²¹

With the growth of employers' associations and the introduction of a more advanced system of collective bargaining and arbitration, however, the walking delegate in many places is losing his power for evil, and is becoming a purely administrative official with little individual initiative. The officials of the unions claim that business agents do not interfere with the business of employers and barring exceptional cases are not the cause of strikes. The business agent collects dues, sees that every member carries his working card, organizes non-union men, and whenever possible brings about the peaceful settlement of all difficulties.²² Notwithstanding this favorable view, it is maintained even by friends of labor that the walking delegate has greatly injured the cause he represents. Taking advantage of the powers con-

²¹ See "The New York Building Trades," by J. R. Commons, in *Quarterly Journal of Economics*, May, 1904.

²² See testimony of the general secretary of the International Building Trades Council before the Industrial Commission. (Report, Vol. XIV, 1901, p. 23.)

ferred upon him by the executive board or the trades council, he has frequently acted with haste and imprudence, not only causing resentment on the part of employers and the public in general, but wronging the very persons in whose interest he is supposed to work.

The Structural Building Trades Alliance requires affiliated unions who desire the support of the various branches in a contemplated strike to obtain the special approval of the board of governors.²² Before a sympathetic strike is declared in the Metal Trades Federation, a statement of the grievance must be submitted by the local union wishing the support of the other unions to the local council. The council failing to reach a settlement refers the statement through the secretary-treasurer to the executive officer or secretary of each affiliated union, who ascertains the opinion of his own trade executive board. If a two-thirds' vote of the affiliated unions is in favor of supporting the grievance and final efforts to adjust the trouble fail, a general strike led by the president of the council is declared.

The financial weakness of the national trades councils makes it impracticable for them to control effectively local sympathetic strikes. Partly to strengthen the hands of the central executive, the constitution of the International Building Trades Council, as amended in 1900, authorized the general executive board in case of a strike or lockout to levy an assessment of five cents per member per week for a period not to exceed ten weeks in any one year. But this plan did not prove satisfactory, and the secretary-treasurer in his report to the sixth annual convention complained: "If the laws pertaining to strike benefits were enforced as per letter instead of the spirit in which they were enacted, the National Building Trades Council would now be an organization in memory only. Every union on strike would be entitled to financial aid and the ten weeks' assessment

²² To inaugurate a sympathetic strike in any locality, a two-thirds vote of the local board of governors is necessary; see Constitution, Structural Building Trades Alliance, 1904, Art. IX, secs. 1-6.

authorized in any one year would be but a drop in the bucket."⁸⁴ Consequently, the convention of 1903 instructed the general secretary-treasurer to keep on hand a separate emergency fund equivalent to five cents for each member of affiliated building trades councils, and to levy a special assessment of five cents per member whenever the emergency fund should sink below this amount.⁸⁵ The International Council, however, expects each affiliated union to support its own members as far as possible from the strike fund it may have on hand, from benefits received from the national or international union, and from a system of assessments inaugurated whenever a general strike is threatened. In 1901 the strike assessments of the International Council amounted to \$8,029.72; in 1902, the strike fund had a balance of 1,099.34; and in 1903, a balance of \$2,735.71.

Theoretically, the executive boards of the various trades councils have power to call off an authorized sympathetic strike. The Metal Trades Federation, for example, gives its executive committee the right, by majority vote, to declare a general or sympathetic strike off at any time as far as the Federation is concerned. The individual union may continue the strike on its own responsibility and with its own resources, but it must expect no further assistance from the allied trades.⁸⁶ In like manner, the Structural Building Trades Alliance requires at least two-thirds of the local board of governors to concur in any settlement of a local strike upon the recommendation of the unions directly involved.⁸⁷

Prior to the convention of 1904, when the secretary-treasurer of the International Building Trades Council ceased to be a member of the executive board, this official practically controlled the decisions of the national council.

⁸⁴ Proceedings, National Building Trades Council, Sixth Annual Convention, 1903, p. 219.

⁸⁵ *Ibid.*, p. 204; also Constitution, 1903, Art. IX, sec. 5.

⁸⁶ Constitution, Metal Trades Federation, 1903, Art. XI, sec. 2.

⁸⁷ Constitution, Structural Building Trades Alliance, 1905, Art. X, sec. 5.

In 1903, for example, a disagreement leading to a strike had occurred between the building trades council and the building contractors of Charleston, South Carolina. The council, it appears, had refused to work for certain contractors who were employing members of a plumbers' and electrical workers' union not affiliated with the trades council. On October 30, 1903, the secretary-treasurer rendered the following decision with regard to the strike:

I, therefore, in the interest of the Building Trades Council (of Charleston, S. C.), the welfare and the prosperity of the building industry of your city, and in justice and fairness, by authority vested in me by the constitution of the National Building Trades Council of America, decide that all strikes now pending against such contractors be, and are hereby, declared off, and that all members who can obtain employment in such shops or on such jobs resume work at once.²²

Among the minor functions of trades councils, mention may be made of (a) the use of the boycott, and (b) activity in labor legislation and in politics.

(a) The boycott as a method of enforcing demands has been generally favored by trades councils. Obviously, the more comprehensive the organization and the greater the control exercised over local unions the more effective will be the boycott of a local council. An important boycott in which a local building trades council enlisted the support of the National Council began in July, 1901. The Schlitz Brewing Company having been declared unfair by the building trades council of Milwaukee for violating its agreement with the council, appealed to the Federated Trades Council, chartered by the American Federation of Labor. Ascertaining that the latter organization wished to disband the independent building trades council and form a building trades section under the Federated Council, the American Federation refused to support the boycott. A struggle followed between the local building trades council, supported

²² See Pamphlet, "To Avoid Strikes and Lockouts," issued by the National Council, pp. 4-5.

by the National Council on the one side, and the Milwaukee Brewing Association and the American Federation on the other. The employers' combine, with the aid of a federated council anxious to reorganize the building trades, proved too strong for the building alliance, and in May, 1903, the efforts to make the boycott effectual ceased.³⁹

(b) Allied trades councils frequently endeavor to influence legislation. The constitution of the International Building Trades Council makes special reference to a mechanics' lien law. Again, a resolution adopted in 1899 by the general executive board authorized the president and general secretary to appoint a general legislative committee to secure the passage of labor legislation by the national legislature.⁴⁰ Although the desired legislation is different in different localities, one reform seems to have received particular attention wherever building trades councils are active, namely that all buildings in the course of erection shall be provided with temporary flooring on each story above the first floor.⁴¹

The Metal Trades Federation and the Structural Building Trades Alliance are too recent in origin to have any well defined attitude towards political candidates, but the International Building Trades Council frequently advocates the election of any candidates who are known to favor organized labor. For this purpose the columns of the official journal, the *Labor Compendium*, are used. A recent example of political activity in national affairs was the

³⁹ Proceedings, International Building Trades Council, 1902, pp. 18-29; 1903, pp. 205, 206.

⁴⁰ Proceedings, International Building Trades Council, 1900, p. 30. Similar work is carried on in the various states. In the official report of the joint legislative committee including representatives of the Brotherhood of Locomotive Engineers, Locomotive Firemen, Railroad Trainmen, and the Federation of Labor for the State of Indiana, we find typical examples of this work. Bills favorable to labor and introduced into the state legislature are given hearty support, while unfavorable legislation is strongly opposed; see Indiana Blue Book, Joint Legislative Committee, 1903.

⁴¹ Labor Compendium, August 21, 1898.

earnest support given Mr. William R. Hearst as a candidate for the Democratic nomination for president.⁴²

⁴² The following resolution offered by an affiliated union and adopted by the Building Trades Council of St. Louis is a typical example of local participation in politics: "Whereas, John T. Hunt, candidate for Congress for the eleventh district of Missouri, a stone-cutter by trade, is a tried and true friend of trades unions, therefore, be it resolved, that we, the Building Trades Council of St. Louis and vicinity, do indorse the said John T. Hunt for office . . . , and that we give him our universal support from now until election day, November 4, 1902." (Labor Compendium, October 26, 1902.)

PART III.

INDUSTRIAL UNIONS.

CHAPTER I.

HISTORY.

Certain national unions, very similar to the industrial union, are in reality trade unions. The Typographical Union, for example, is still a trade union; although since the introduction of machinery the Union has found it necessary to admit the machinists employed in the printing office. The pressmen and similar workers in the industry have separate national trade unions. In other industrial fields, notably in the boot and shoe,¹ the garment, the cigar, and the textile industries,² where minute subdivision of labor has made one operative entirely dependent upon the work of another, separate national organizations for the branches have disappeared.

In the following pages, attention will be directed to those industrial unions which seek to include under one national organization the auxiliary trades as well as the various branches of the principal trade in a single industry. As thus defined the most important industrial unions are the Brewery Workmen, the Mine Workers, the Western Federation of Miners, and the Brotherhood of Railway Employees.³

¹ But the lasters, the cutters, and the sewers, organized as the Boot and Shoe Workers' Union do not form an industrial union in the strict sense, since these operatives are all following essentially one trade and do not include in their organization auxiliary trades. In other words, the unit is still the trade and not the industry.

² Proceedings, American Federation of Labor, 1888.

³ The structure of American trade unions is undergoing such constant change that no hard and fast line may be drawn between one form and another. In this study, however, those unions which have

The National Union of Journeymen Brewers was organized in 1886, but the plan of organization proved unsatisfactory and a more comprehensive union was soon planned. On March 4, 1887, the American Federation of Labor granted a charter to the brewery workmen in the following terms:

The organization shall be known as the National Union of United Brewery Workmen of the United States, for the thorough organization of the trade and a more perfect federation of all trades and labor unions; and the union, being duly formed, is empowered and authorized to initiate into its membership any person or persons in accordance with its own laws, and conduct the business affairs of said union in compliance with the best interests of the trade and labor movement in general. The autonomy of the union is hereby ordained and secured.

On May 21, 1887, the general executive board of the United Brewery Workmen notified the workmen in the different branches of the industry, namely, the brewers, beer drivers, maltsters, beer-bottlers, engineers, firemen, etc., to join the recently established union under the charter issued by the American Federation. Subsequently, at the first convention held in Detroit, September, 1887, to which delegates were sent from these different branches, the amalgamation of the several trades into one industrial union was practically completed by the formal acceptance of the maltsters, the brewery engineers, the brewery firemen and beer drivers as members of the national union.⁴

During 1887-88 the organization developed rapidly on account of the friendly attitude of employers. It often happened that the master brewer, fearing the effect of open hostility to organized labor, consented to have his plant unionized and even urged his employees to join the union. A little later, however, these new members, ignorant of the

disregarded trade boundaries and have carried the principles of organization according to industries farthest are considered, while occasional reference is made to other important unions which seem to be approaching the industrial form.

⁴ Proceedings, United Brewery Workmen, 1887, p. 20.

aims of organized labor and anxious to assert their independence, caused considerable trouble by making extravagant demands. To resist the encroachments of the union, the employers organized "The Master Brewers' Association" and a short time thereafter, in April, 1888, declared a general lockout of all members of the brewery unions in Philadelphia, New York, Newark, Brooklyn, Buffalo, Cincinnati, St. Louis, Chicago and Milwaukee. At this time the United Brewery Workmen had reached a membership of about 12,500, but in consequence of the lockout, the number was reduced to 1,250.

The union gradually recovered and made gains in membership year by year. In 1895 the American Federation of Labor made an attempt to drive those brewery workers who had formed national trade assembly No. 35, Knights of Labor, either from that organization or from the American Federation.⁵ At the Cincinnati convention of 1896 the Federation instructed all organizations affiliated with the American Federation to give the United Brewery Workmen as a national union all possible assistance in opposition to the Knights of Labor.⁶ Thenceforth brewery workmen gradually withdrew from the Knights of Labor until at the present time practically no brewery workmen remain in that Order.

Aside from this rivalry between the national union and the national trade assembly of the Knights, serious trouble had arisen from time to time with national trade unions claiming jurisdiction over some of the workmen admitted to membership by the Brewery Workmen. Thus, the International Union of Steam Engineers has claimed the brewery engineers; and the International Brotherhood of

⁵ In March, 1894, the general executive board of the Knights of Labor granted permission to the brewery workmen to form a national trade assembly; see *Journal of the Knights of Labor*, March 8, 1894.

⁶ The executive council in October, 1896, for example, agreed to indorse the label of the United Brewery Workmen on condition that no Knights of Labor assemblies of brewers be permitted to use the union label on their products; see *Proceedings, American Federation of Labor*, 1896, p. 89.

Stationary Firemen, the brewery firemen. The various grievances have been submitted to the annual conventions of the American Federation, but no satisfactory settlement has thus far been reached. In 1900 and again in 1901 the Federation of Labor declared that "the best interests of the movement will be conserved by vesting the jurisdiction over the employees of the brewery in the United Brewery Workmen's Union."⁷ But in 1902 the executive council of the American Federation, apparently reversing the previous decisions of the convention, ordered the Brewery Workmen to revoke all charters issued to engineers' and firemen's unions since the convention of 1900. The American Federation is thus opposed to the present aims of the Brewery Workmen who are striving in every way possible to maintain jurisdiction over all the various branches of the industry.⁸

The first national organization of miners in the United States appears to have been the American Miners' Association formed in Illinois during 1861. At one time this Association had state and district organizations in several eastern states, but it suffered severely in the strikes of 1867 and 1868 and soon disbanded. From 1869 to 1874 the Miners' and Laborers' Benevolent Association of the anthracite coal region, and the Miners' National Association of the bituminous fields carried on the work of organization in their respective localities. From 1874, however, these associations rapidly declined, and little activity seems to have been displayed among the miners until the organizers of the

⁷ Proceedings, American Federation of Labor, 1900, pp. 186, 187; *ibid.*, 1901, pp. 245, 246.

⁸ The membership of the Brewery Workmen has increased steadily. On April 1, 1899, the national secretary reported a membership of 12,450. In September, 1900, he reported the number of local unions to be 202, and the membership 19,900; in September, 1901, local unions 280, and membership 26,000; and in February, 1903, local unions 316 and a membership of 31,300; see Proceedings, National Union of the United Brewery Workmen, 1900, p. 6; 1901, p. 45; 1903, p. 154.

Knights of Labor infused new life into the miners' unions. In May, 1883, an inter-state convention, including representatives from Ohio, Maryland and Pennsylvania, was held by the Amalgamated Association of Miners with the object of bringing under one government all miners and laborers in and about the mines of the country.⁹ At a national convention held in Indianapolis, September 9, 1885, a new organization of miners was formed, the National Federation of Miners and Mine Laborers. This union later gained considerable influence throughout the coal fields and succeeded in establishing joint conferences and annual agreements regulating scales of wages with the coal operators.

The rivalry existing between the National Federation of Miners and Mine Laborers and the district assembly of Knights of Labor proved disastrous to both. A joint convention in 1888 formed the Miners' National Progressive Union, and in 1890 the United Mine Workers of America, composed of members from each organization, was established.¹⁰ The early life of the new union was precarious, and for several years after the strike of 1894 the membership constantly dwindled. From 1897, however, when a general strike gave new life to the movement, the numerical strength of the union was rapidly increased. The prestige of the union was materially increased by the strike of 1900 and in 1902 by the prolonged strike of the anthracite coal miners.¹¹

In planning the Mine Workers' Union, its founders intended that its jurisdiction should extend over the whole coal industry and include unskilled as well as skilled workers, not only miners, but also mine engineers, machinists, teamsters, etc. It was planned to include both anthracite and bituminous miners in one union in order to control more effectively the production of these partially competing fields.

⁹ National Labor Tribune, 11th year, No. 20, p. 5.

¹⁰ Ibid., 13th year, No. 38, p. 5; and 17th year, No. 51, p. 5.

¹¹ Mitchell, *Organized Labor*, p. 362, and Report of the Industrial Commission, Vol. XVII, pp. 184-185.

The wide scope of the national union thus formed has developed controversies between the United Mine Workers on the one hand and the Firemen and Blacksmiths on the other. The American Federation of Labor, with whom the different organizations are affiliated, has declared, through its executive board, that the United Mine Workers, in the interest of greater harmony among the branches in the industry, shall have sole jurisdiction over the disputed trades, and has otherwise encouraged its efforts to extend the industrial union throughout the mining industry.¹²

The Western Federation of Miners held its first convention on May 15, 1893, in Butte, Montana, with forty-two delegates present from fifteen unions. Officers were elected and a resolution protesting against the action of the Mine Operators' Association in the Coeur d'Alene struggle of 1892 and 1893 was adopted. In 1894, soon after the establishment of the union, the men employed in the Cripple Creek gold fields demanded a minimum wage of three dollars for an eight-hour day, and after four months the strike resulted in a victory for the union. Other strikes occurred in 1896 and 1897 at Leadville, in 1899 in the Coeur d'Alene mining district, and in 1901 at Rossland and Fernie, British Columbia, and also in the San Juan district of Colorado.

The most important strike of the Western Federation of Miners, however, began in 1903 at Colorado City, where the mill and smeltermen's union quit work in order to compel better working conditions. As the sympathetic strike is a recognized part of policy of the Western Federation of Miners, the executive board decided on March 16th, "to notify all men working on properties supplying ore to the Standard Mill in Colorado City to discontinue work" and a little later the

¹² Proceedings, American Federation of Labor, 1900, p. 192. The membership as reported at the annual conventions since 1897 has been as follows: For 1897, 9,731; 1898, 32,902; 1899, 61,887; 1900, 115,521; 1901, 198,024; 1902, 175,367; 1903, 247,240; see Proceedings, United Mine Workers, 1901, p. 61; 1902, p. 61; 1903, p. 61; 1904, p. 49.

miners in the Cripple Creek region were called out. One of the chief causes underlying the bitter conflict which followed was the determined effort to establish the eight-hour day in the smelter works of Colorado.¹⁸ In 1899 the legislature had passed an eight-hour law which was declared unconstitutional by the Supreme Court of the State. To overcome this difficulty, an amendment to the state constitution was passed in November, 1902, by a majority of over 45,000 votes, but the General Assembly, after having thus received a direct command to establish the eight-hour law, adjourned without taking any action on the measure. It is claimed that much of the subsequent disorder, personal injury, and even bloodshed in the Cripple Creek region during 1903-04 are traceable to this failure on the part of the legislature to enact an eight-hour law.

Early in 1900 a relief department, maintained partly by the compulsory contributions of the employees, was established on the Pacific railway lines. This department was similar in many respects to those already established by the Pennsylvania and the Baltimore and Ohio railroads. The organized railway employees objected to certain features of the relief system and called meetings of their executive boards for the purpose of formulating an appeal to be sent to the general offices of the company. In April, 1900, fifty-five delegates, assembled at San Francisco, formed a committee with Mr. George Estes as chairman, and presented their claims to the officials of the road. The success of this joint committee in securing the abandonment of the plan for a relief department, coupled with the complete failure of a strike declared in December, 1900, by the Order of Railroad Telegraphers, led to a demand for an industrial union with a relief department as a leading feature.

The United Brotherhood of Railway Employees undertook to supply this need. In January, 1901, eight railroad

¹⁸ Report of the United States Commissioner of Labor, 1905, "Labor Disturbances in Colorado."

men,—an engineer, a conductor, a fireman, a brakeman, a bridge carpenter, a section foreman, a machinist, and a trainmaster met at Roseburg, Oregon, and adopted a constitution for a projected union of all men engaged in the railway service. On January 27, 1901, at a general mass meeting of railroad men, Roseburg Division, No. 1, the first lodge of the United Brotherhood of Railway Employees, was organized.

Almost simultaneously two other organizations, the Employees' Amalgamated Association of San Francisco, and the United Brotherhood of Railway Employees at Winnipeg, Manitoba, sprang into existence. Each planned to bring all railroad men under a single government and to protect them by means of sick, accident, funeral, disability and death benefits. After periods of brief independent activity the San Francisco and Winnipeg unions joined the order instituted at Roseburg, under the general title of the United Brotherhood of Railway Employees. In 1902 the Order sought admission to the American Federation of Labor, but owing to the industrial character of the union, and the rivalry almost certain to result between it and the railway brotherhoods, the Federation refused to grant a charter.¹⁴ The United Brotherhood then joined the American Labor Union and became one of the three national organizations affiliated with that order. In March, 1905, the United Brotherhood, as yet comparatively small in membership, consisted of sixty-eight divisions located in Oregon, California, Nevada, Montana, Colorado, Texas, Minnesota, Louisiana, North Dakota, Kansas, Illinois, Pennsylvania, Manitoba, Arizona, Washington, Arkansas, Indiana and New Mexico.¹⁵

In certain respects the United Brotherhood of Railway Employees may be considered a successor to the American Railway Union of 1893-1897. Soon after the Supreme Council of the United Order of Railway Employees, a loose

¹⁴ Proceedings, American Federation of Labor, 1902, p. 57.

¹⁵ The Voice of Labor, March, 1905, pp. 23, 24.

federation of railway unions, disbanded in June, 1892, Eugene V. Debs, of Terre Haute, undertook to organize the railway employees upon an entirely different basis.¹⁶ All branches of the railway service were united under a single government. A manifesto describing the proposed organization declared: "There will be one supreme law of the Order, with provisions for all classes, one roof to shelter all, each separate and yet all united when unity of action is required. In this is seen the federation of all classes which is feasible, instead of the federation of organizations which has proved to be utterly impracticable." The American Railway Union had at first a board of directors consisting of nine members, together with representatives who supervised the general activity of the organization. To facilitate the work of the Order committees of three members each were selected with these titles: literature, meditation, insurance, employment and finance. All railway employees were eligible to membership except general yardmasters, supervisors of bridges or buildings, superintendents of telegraph, master mechanics, general or commercial agents and division superintendents of transportation, etc. Although the union grew rapidly, it had not become firmly established before a sympathetic strike was declared in support of the Pullman employees, in June, 1894, and this strike led to the collapse of the union a short time thereafter.¹⁷

A conference of industrial unionists was held in Chicago, January 2, 3 and 4, 1905, for the purpose of advancing the industrial movement in the United States. The initial manifesto issued urged all workers who favored the industrial union as a form of organization to meet in convention in Chicago on June 27, 1905, and set forth the following principles: "Separation of craft from craft renders industrial and financial solidarity impossible. Union men scab

¹⁶ See Wright, *op. cit.*, pp. 260, 261.

¹⁷ Journal of the Knights of Labor, August, 24, 1893.

upon union men, hatred of worker for worker is engendered, and the workers are delivered helpless and disintegrated into the hands of the capitalists. Craft divisions foster political ignorance among the workers, thus dividing their class at the ballot box, as well as in the shop, mine and factory." To gain effectiveness, according to the manifesto, there must be "one great industrial union embracing all industries—providing for craft autonomy locally, industrial autonomy internationally, and working class unity generally," wherein final authority shall rest with the collective membership.

Among the signers of the manifesto were Eugene V. Debs, Daniel McDonald, president of the American Labor Union; Wm. E. Trautman, editor of the *Brauer Zeitung*; Clarence Smith, secretary-treasurer of the American Labor Union; Chas. H. Moyer and Wm. D. Haywood, president and secretary-treasurer, respectively, of the Western Federation of Miners; George Estes and Wm. L. Hall, president and secretary-treasurer, respectively, of the United Brotherhood of Railway Employees, and Chas. O. Sherman, general secretary of the United Metal Workers.¹⁸

¹⁸ The Voice of Labor, March, 1905, pp. 3-5.

CHAPTER II.

STRUCTURE.

The primary unit in the structure of industrial unions is the local union. In some unions, the locals are organized along trade lines, in others the mixed local is the preferred form. The United Brotherhood of Railway Employees provides for separate locals of engineers, conductors, etc., while the United Mine Workers and the United Brewery Workmen favor mixed locals, or locals whose members represent all branches of the industry. Again, the Western Federation of Miners ordinarily urges members to join the local of their particular craft. In case there is no trade local nearby firemen, pumpmen and machinists become members of engineers' unions, and blacksmiths join miners' unions.¹ Though it is the accepted policy of industrial unions to maintain industrial unity as against trade autonomy, local unions organized by trades have power to legislate upon trade questions, as long as this independent activity does not conflict with the established laws of the national body.

Existing industrial unions, as compared with trade unions, attach comparatively slight importance to their annual or biennial conventions. The need for conventions is considerably lessened by the increased administrative and judicial power assigned to the general executive board and the more general use of the initiative and referendum. Thus, the United Brewery Workmen, the United Brotherhood of Railway Employees and the Amalgamated Meat Cutters and

¹ Constitution, Western Federation of Miners, 1903, Art. VI, sec. 1.

² The Amalgamated Meat Cutters and Butcher Workmen are approaching the form of an industrial union. The union admits to membership all persons who are employed in slaughtering and packing establishments, except superintendents, foremen, bookkeepers,

Butcher Workmen² hold only biennial conventions. The General Division of the United Brotherhood of Railway Employees retains the right "to consider and recommend to the collective membership for referendum vote any policy, plans or laws which it may deem advisable," but all legislative power is vested in the individual members.³ Contrary to the general tendency herein noted, the annual convention of the International Longshoremen, Marine, and Transport Workers' Association has "full and final jurisdiction over all locals" and is the "ultimate tribunal to which all matters of general importance . . . shall be referred for adjustment."⁴

The executive board in national industrial unions is made up of representatives of the various trades included in the union.⁵ The Brewery Workmen have a board of thirteen members including four brewers, four beer drivers, one maltsters, two beer-bottlers, one brewery engineer, and one brewery fireman. Six of these are nominated at the biennial convention and elected by popular vote. The remaining seven, who reside in the city where the union has its headquarters, are elected annually in a general or special convention.⁶ The executive board of the Railway Employees

office clerks, salesmen for wholesale houses, and time keepers; see Constitution, 1901, Art. I, sec. 1.

³ Constitution, United Brotherhood Railway Employees, 1904, Art. IV, sec. 2; Art. I, sec. 1. Contrast this provision with the corresponding one in the constitution of 1902, which reads: "The General Division is the congress or highest law-making and exclusive legislative power over all divisions which are now in existence, or which may hereafter be instituted, etc."; see Constitution, United Brotherhood of Railway Employees, 1902, Art. III, sec. 1.

⁴ Constitution, International Longshoremen, Marine and Transport Workers' Association, 1904, Art. II and Art. III, sec. 1.

⁵ The executive board of the United Mine Workers in addition to the national officers includes one member from each district. In the convention of 1903, President Mitchell repeated his objection to the present structure of the national executive board, and succeeded in having the constitution amended so that whenever a general strike is contemplated, each member of the executive board instead of having one vote shall have one vote and one additional vote for every 5,000 members in good standing or majority fraction thereof."

⁶ Constitution, 1904, Art. V, secs. 1 and 2; Art. VII, sec. 10.

is composed of the president, general secretary-treasurer, and one representative from each of the fifteen trades. All of the members of the board except the secretary-treasurer are elected by a referendum vote for a term of two years.⁷

Large discretionary powers are vested in the national executive board. This body practically represents the convention when the latter is not in session and directs to a large extent the affairs of the national organization. In questions of wide interest, however, the initiative and referendum is an important check to arbitrary action. Thus, in the Brewery Workmen a popular vote is taken on the demand of a local union supported by one-eighth of all local unions.⁸ As considerable delay necessarily attends this referendum vote, the immediate check to the executive board is comparatively slight. A more effective check perhaps is the direct responsibility of the board to the general convention, or, wherever the officials are elected by referendum vote, to the general membership.

The office of president in an industrial union is made peculiarly difficult by the presence of various trades in a single organization. It is difficult to select an executive officer with qualifications necessary for this service. In the present structure of the United Brewery Workmen no provision is made for an official head and the duties ordinarily assigned to a president are performed by the international board.⁹ In the remaining industrial unions the more important powers of the national president may be considered briefly under the following heads: (a) appointing power, and power of suspension or removal, (b) general supervisory powers, (c) control over strikes.

(a) The national president of the United Mine Workers has power with the consent of the executive board to fill by

⁷ The secretary-treasurer is elected by the General Division for a term of two years; see Constitution, 1904, Art. II, secs. 1 and 2.

⁸ Constitution, United Brewery Workmen, 1904, Art. XIV, sec. b.

⁹ Another important consideration in this case is the prevalence of socialistic ideas among the brewery workers. In theory the national secretaries and the editor of the *Brauer Zeitung* are all on an equality.

appointment all vacancies occurring in the national offices and also to suspend any national officer for insubordination or for other just cause. He has the right to appoint organizers who are usually selected from members of the national executive board whenever their services are required.¹⁰ As may readily be inferred, this power to remove national officials, combined with the right to appoint as organizers members of the executive board, materially strengthens the president in his administration of affairs. Similarly, the president of the Western Federation of Miners, with the approval of the executive board, may fill all vacancies in the national offices and appoint such organizers as the condition of the union may warrant.¹¹

(b) Besides the power of appointment and removal, the presidents of industrial unions exercise general supervision over the different departments. Thus, in the International Longshoremen, Marine and Transport Workers' Association he superintends the general activity of the locals and enforces all laws of the national convention.¹² The president ordinarily has the right to visit any local union and inspect its proceedings either in person or by deputy for the express purpose of finding out whether the laws of the organization are obeyed.¹³ The Western Federation of Miners, for example, requires the national president to visit each district once a year, and also as many local unions as possible primarily to see whether each union is bearing a proper share of the tax burden.¹⁴

(c) Occasion for prompt and decisive action arises in time of threatened or actual strike. Industrial unions usually provide for such an emergency by vesting the necessary power to act in the hands of one man or a small body of men. The United Brewery Workmen and the

¹⁰ Constitution, United Mine Workers, 1903, Art. II, sec. 2.

¹¹ Constitution, Western Federation of Miners, 1903, Art. III, sec. 3.

¹² Constitution, 1904, Art. IV, sec. 3.

¹³ See, for example, Constitution, Amalgamated Meat Cutters and Butcher Workmen, 1903, Art. III, sec. 2.

¹⁴ Constitution, Western Federation of Miners, 1903, Art. III, sec. 3.

Western Federation place the executive board in charge of affairs. The United Mine Workers and the United Brotherhood of Railway Employees, on the other hand, practically give supreme authority in strikes to their national presidents. Before a district decides any question which directly or indirectly affects the interests of mine workers in other districts, the president and secretary of that district must send a written statement to the national president, "setting forth the grievances complained of, the action contemplated by the district, together with the reasons therefor, and the national president shall, within five days after the receipt of such statement, either approve or disapprove of the action contemplated by the aggrieved district."

If the national president favors the plan proposed, the district is then free to act without further delay. If he refuses to sanction the strike and the district is unwilling to accept his decision, an appeal may be taken to the national executive board. In any event, until the national president has given his approval or the national executive board has sustained an appeal, no district may enter upon a strike unless it has been ordered by a national convention.¹⁵ The president of the United Brotherhood of Railway Employees likewise approves and conducts strikes favored by a two-thirds vote of all members affected, but no strike is legal unless it receives the approval of the national president.¹⁶

The other elective officials of industrial unions are the vice-presidents, the secretary-treasurer, and in the United Brewery Workmen, a corresponding secretary and a financial recording secretary. The vice-presidents assist the president in the discharge of his duties and sometimes act as general organizers for the union. The secretary-treasurer keeps a report of the convention proceedings, submits a complete statement of the receipts and disbursements

¹⁵ Constitution, United Mine Workers, 1905, Art. X, sec. 2.

¹⁶ Constitution, United Brotherhood Railway Employees, 1904, Art. III, sec. 4.

to the convention, and attends to all correspondence of the central office. He is usually required to give bond for the faithful discharge of his duties, ranging from \$2,500 in the United Brotherhood of Railway Employees to \$30,000 in the Western Federation of Miners.

In most industrial unions the executive and judicial acts of the president are subject to the approval of the general executive board which thus stands as a permanent check to any abuse of power. Where the constitution fails to make a definite provision of this kind other effective checks are provided. For instance, the constitution of the United Brotherhood of Railway Employees provides that the general executive board "has power to enforce its decisions by dismissing officers, except in the case of the president, who may be suspended by the board for cause, subject to appeal to the General Division or collective membership." Again, if five or more divisions at any time recommend the dismissal of the president or general secretary, a referendum vote on the proposition must be taken within two months.¹⁷ Similarly, the constitution of the United Brewery Workmen provides that in case any of the international officers "fail to perform their duties or become guilty of dishonest transactions, they can at any time be suspended or removed from office by the international executive board, but they shall have the right of appeal to the next convention or may demand a popular vote on the subject."¹⁸

Where less stress is placed on the annual or biennial convention, the officers are elected by the membership. The United Mine Workers, for example, prior to 1902 elected their officers at the annual convention, and the delegates came prepared to vote for candidates who had been nomi-

¹⁷ Constitution, 1904, Art. II, sec. 14, and Art. I, sec. 2.

¹⁸ Constitution, United Brewery Workmen, 1904, Art. V, sec. 16. Any local of the Longshoremen's Union may prefer charges against an elective officer of the association for violation of the constitution or laws. The executive council is empowered to try all such cases; see Constitution, 1904, Art. IX.

nated in advance by the constituent unions.¹⁹ In that year the system of electing national officers by popular vote was introduced and has since been used. Secretaries of local unions forward to the national office not later than eleven weeks before the convention the names of persons nominated by the locals. If a member has been nominated by five or more local unions he is notified within ten days after the nominations are closed. The names of the successful candidates are then sent to the locals not later than seven weeks and are voted upon not later than twenty days, before the annual convention assembles. The returns are forwarded at once to the national secretary-treasurer, canvassed by the national auditors, and reported to the convention. The candidates who have received a majority of the popular vote are declared elected, and in case any one lacks the necessary majority, an election is held by the convention in which the votes cast by each delegate are in proportion to the membership of the local unions represented.

A slightly different plan adopted by the United Brewery Workmen provides that the candidates receiving the highest number of votes, or a plurality thereof, shall be declared elected, and whenever two candidates are tied for any office another popular vote shall be taken.²⁰ The experience of industrial unions with the referendum, however, is unsatisfactory in that unless a question of special interest is presented to the members, a considerable part of the members do not vote. Thus, important offices may be filled or laws enacted by the votes of a comparatively limited portion of the membership. To make the referendum vote more representative, the United Brewery Workmen impose a fine of \$1.00 on every member who neglects to participate in the election of officers.²¹

¹⁹ Constitution, United Mine Workers, 1899, Art. VI, sec. 1.

²⁰ Ibid., 1904, Art. VII, sec. 3. The Western Federation of Miners, the Longshoremen, the Amalgamated Meat Cutters and Butcher Workmen have not yet adopted the system of election by popular vote.

²¹ Constitution, United Brewery Workmen, 1904, Art. VII, sec. 5.

CHAPTER III.

FUNCTIONS.

Attention may now be directed in turn to certain typical activities displayed by industrial unions in (a) the organization of new members, (b) the formation of agreements with employers, (c) the use of the label, (d) strikes, (e) boycotts, (f) politics, and (g) jurisdictional disputes.

(a) As in trade unions, paid organizers are appointed in the industrial unions who devote all or a large portion of their time to the interests of the union. The constitution of the International Longshoremen, Marine and Transport Workers' Association, for example, declares: "The president with the approval of the executive board shall have power to appoint an organizer wherever and whenever he may find it necessary. Such appointee must be a member in good standing and must be an active member engaged in his particular calling." Since the industrial unions are of comparatively recent formation, the question of organizing new locals is one of the most important with which the unions have to deal.

Industrial unionists as a rule claim that their form of organization is superior to that of trade unions in organizing new locals. In such industries as mining or railroading, separate national organizations for each trade necessitate separate sets of organizers working independently, whereas an industrial union governed by a single set of national officials following a uniform policy is enabled to do more effective work with a relatively smaller corps of organizers. Furthermore, the affiliation of a brewery engineer, a mine blacksmith or a marine and transport worker is uncertain as long as individual trades persist in their efforts to organize national unions. On the contrary, whenever labor organi-

zations follow exclusively the broad lines indicated by the industry, this confusion is less likely to occur.¹

(b) Ordinarily, trade union agreements cover only the workmen of a single trade. If an industry is thoroughly unionized, there will be as many independent agreements regulating wages, hours, and minor conditions of employment as the number of trades represented therein. Since these agreements naturally expire at different times, a real or fancied grievance of any one trade resulting in a strike or lockout does not affect other closely associated trades which remain at work under the terms of their respective agreements. Thus, it frequently happens that the union men who continue working at such times are practically lending the greatest assistance to employers in their efforts to break the strike.

The industrial union, on the other hand, mustering the various trades in the industry under a single authority, is enabled to form one comprehensive agreement with employers and to act as a unit in all trade difficulties.² As a result, wherever the employer is willing to recognize and confer with union officials at all, he is more likely to concede better terms to the one conference committee bargaining in the name of his whole working force than he otherwise would feel inclined to concede to the separate trades under a system of independent trade agreements.³

¹ Here again it must be remembered that the activity of industrial unions in organizing members of trades with national unions has in reality been the source of numerous conflicts. But this conflict, it is claimed, is temporary in character and merely reveals the inevitable friction attending all transitional stages.

² See pp. 140, 141.

³ As the employers become more thoroughly organized a higher degree of intelligence and a greater capacity for leadership on the part of labor representatives are required. Where employers are confronted with the demands of an authorized committee representing all workers in the industry, as the committee of the Mine Workers, in place of separate trade committees, as would be the case if the mine engineer or the mine blacksmith had separate trade organizations, the strategic position of the employees is considerably strengthened; see Industrial Commission Report, XIX, 1902, p. 844.

Contrary to the general policy of industrial unions with respect to the agreement, the Western Federation of Miners strongly opposes any contract extending over a considerable period of time. In the opinion of Secretary Haywood, who no doubt voices the prevailing sentiment, a time agreement, while tying the hands of the union, gives an unfair advantage to the employer who may on slight pretext throw men out of employment without doing violence to the letter of the agreement.⁴

In many agreements the various departments of the industry are enumerated with the corresponding rate of wages for each department or line of work. Thus, the agreement between the United Brotherhood of Railway Employees and the Rock Island System in New Mexico, to be in force from April 1, 1904, to April 1, 1905, fixes the rates of wages in the different departments in detail.

It is further claimed by the advocates of the industrial union that under normal conditions higher wages are maintained under the industrial agreement than under the more usual trade agreement. Thus, the international secretaries of the United Brewery Workmen, replying to the efforts of the Teamsters' International Union to absorb the beer drivers, have declared: "We know from experience that the Teamsters cannot command the wages and conditions which our brewery drivers now enjoy."⁵

Whenever a union desires to establish uniform working rules primarily designed to cover entire plants, the advantages of the industrial agreement over the trade agreement are marked. For example, a custom generally observed in the formation of all local agreements between brewery workmen and their employers is the insertion of a clause providing for the "lay-off" system which requires all men to be laid off in rotation. In some cases, however, where

⁴ See also Miners' Magazine, Vol. IV, July, 1903, pp. 27, 28.

⁵ Brauer Zeitung, September 17, 1904. This statement seems in the main to be well-founded as a comparison of the wages received by the beer drivers and other teamsters in various cities reveals.

difficulty is experienced in carrying out this plan strictly, the local union and the employer arrange to stop work altogether in the brewery an hour or so daily during the winter months. Other local unions, again, find it more convenient to have the brewmasters shut down the brewery one day in the week in order to keep the regular supply of men at work throughout the dull season. But whatever the local practice may be, the brewery workmen through the industrial agreement aim to distribute the injurious effects of business depression by letting all members share alike in the reduction of the working force, and this purpose can hardly be well accomplished unless the agreement covers more than a single trade.⁶

Finally, in most agreements in the brewing industry, provision is made for a union labor bureau through which the employers secure their labor supply. Formerly employment was obtained through independent agencies whose interest lay in creating as many vacancies as possible; but wherever the union is now strongly organized this condition has been largely changed. A typical provision of this kind is: "From and after the date of this agreement no brewers or maltsters shall be employed who are not members in good standing of Brewers and Maltsters' Union No. 6 (St. Louis, Mo.) and the Brewery Workmen's National Union, and all brewers and maltsters shall, as heretofore, be engaged through the labor bureau of the above mentioned organization."⁷

(c) In particular industries an important article of the agreement regulates the use of the union label. Where independent trade agreements provide for separate trade labels in a single industry confusion and ineffectiveness frequently result. Furthermore, where the different departments are

⁶ The following provision is found in the fifth section of the New York beer brewers' agreements, 1900: "To avoid discharges during the winter season the workmen shall be laid off in rotation impartially for one week (or all men shall stop work for one day in the week)."

⁷ Industrial Commission Report, 1901, Vol. XVII, p. 410.

closely associated and are equally responsible for a completed product, the label of one branch gives slight evidence that the product is entirely union made. On the contrary, an industrial agreement which establishes a uniform label for the whole group, is sufficient guarantee, if the terms of the agreement are strictly adhered to, that the stamped product of the employer has been made exclusively by union members.

In this connection the part played by the union stamp in the activity of the Boot and Shoe Workers' Union is highly instructive. Prior to 1894, when the blue label was adopted as the label of the craft, the smaller unions in the industry, such as the Lasters' Protective Union, the Cutters' Union, etc., with separate trade labels were constantly in dispute over unsettled questions. In 1895 the advantages of further coöperation were seen, and at a convention held in that year the Boot and Shoe Workers' Union was formed. In October, 1898, a conference for the purpose of forming a union stamp contract between representatives of the Union and the W. L. Douglas Shoe Company of Brockton, Mass., resulted in the formation of an agreement to remain in force three years from November 1, 1898.

By this contract the Union agreed to furnish its union stamp to the employer free of charge, to make reasonable efforts to advertise the official stamp in the public press, union journals, labor conventions, etc., and to create as far as possible a widespread demand for union goods. The manufacturer in turn agreed to employ as boot and shoe workers in his factory in Brockton members of the Boot and Shoe Workers' Union in good standing only, and to dismiss any worker, at the request of the Union, who might be in arrears for dues or for any other cause. He also agreed not to allow the union stamp to be impressed on any goods not made in his union factory. The parties to the contract mutually agreed in all cases of failure to adjust any dispute in reference to wages, hours, etc., to sub-

mit the question to a board of arbitration whose decision should be binding on all concerned.⁸

(d) The regulations of the industrial unions regarding entrance upon strikes do not differ materially from those of ordinary trade unions, except in one particular; since a strike of one trade involves a strike of all, a general mass meeting or conference of all the trades is held before a strike is inaugurated. For example, the boss brewers of St. Louis were willing in 1902 to form contracts covering all branches of the industry except the engineers and firemen. If the employers had persisted in maintaining this position, a general mass meeting of all brewery workers would have been called. If a two-thirds' majority, as determined by secret ballot, had been in favor of the proposition a strike involving the whole brewery would have been declared.⁹

In the United Brotherhood of Railway Employees the local grievance committee of the particular union involved presents any grievance to the railroad management for adjustment. If the difficulty affects the railroad firemen, for example, the committee reports back to the firemen's meeting, where the proposal of the employer is either accepted or rejected. If the terms are rejected the grievance is then carried to the local division or lodge composed of

⁸ Ibid., pp. 409, 410; also Proceedings, American Federation of Labor, 1898, p. 103.

⁹ A typical declaration of a general strike involving a large area is the following announcement which appeared in the official journal of the Miners' Union:

Suspend Work, April 21, at noon:

Let every miner in America stop:

Notice Miners:

General Office United Mine Workers of America,
Columbus, Ohio, Apr. 14th, 1894.

The National Convention of the United Mine Workers of America on April 11th, unanimously adopted the following:

Resolved, That on and after Saturday noon, April 21, 1894, no coal shall be mined in that part of the United States and Territories governed by our organization until such time as our general officers and national executive board shall order the miners to resume work. (See The United Mine Workers' Journal, Vol. IV, No. 2, April 19, 1894.)

all members of the railway service in the immediate locality. It is by them referred to the general executive committee including the chairmen of the local adjustment committees—fifteen men in all, or one man from each department of the service. A two-thirds' vote of this committee determines whether the grievance shall be recognized as a legitimate one by the union. If the railroad management still refuses to adjust the difference final action is taken by the membership of the division to decide whether a general strike shall be entered upon. To extend the strike over the whole brotherhood a referendum vote of the entire membership is necessary.

In following these well-defined rules before a legal strike may be declared, the unions are in line with the general tendency to avoid strikes as far as may be possible by placing effective checks upon hasty action on the part of their locals. The Western Federation of Miners, perhaps the most belligerent of the industrial unions, will not sanction a strike of any local unless ordered by three-fourths of the resident members in good standing.¹⁰

The important advantage urged in behalf of the industrial union in strikes is its ability, on occasion, to bring all parts of the organization to the support of any one part. Thus, a strike of the firemen at the mines or even the firemen on a particular railroad may cause little inconvenience to well organized employers, whereas a general strike of all workers

¹⁰ Constitution, Western Federation of Miners, 1903, Art. V, sec. 1 and sec. 2. When the great strike of 1903 was declared in the Cripple Creek district, the business men issued an ultimatum that the striking miners must pay cash for their merchandise. In retaliation the Western Federation of Miners established four co-operative stores which proved so successful that other enterprises were soon contemplated. In June, 1904, the railroad station at Independence was dynamited and immediately thereafter the whole district experienced a reign of terror. Property belonging to the various unions was destroyed, and the coöperative stores at Victor, Goldfield, Anaconda, and Cripple Creek established by the Western Federation of Miners were entered, contents demolished or carried away, and a loss of thousands of dollars was incurred by the Federation. *Miners' Magazine*, Vol. V, No. 52, June 23, 1904.

in their employ, resulting in a tie-up of the whole industry, is a serious blow to business activity.¹¹

The general executive board in some cases has power to call a general strike of all union men in the industry. Thus, the United Mine Workers give their national board "power to order a general strike or suspension by a two-thirds' vote at any time during the year that they deem necessary, provided that all district presidents, vice-presidents and secretaries be called into joint conference for consideration before any general strike or suspension order be issued."¹² Likewise the Western Federation of Miners has declared that whenever a strike, regularly ordered by the union, is in progress the president and executive board shall have power to call out any other union or unions necessary to make the strike successful.¹³

Once the strike is entered upon, it is usual for the national executive board to take full charge of its conduct. In the United Brewery Workmen the amount of strike benefit paid by the international union is fixed by the international executive board according to the amount in the treasury and the number of members on strike. In other cases a permanent defense fund is established, as in the United Brotherhood of Railway Employees¹⁴ and the Amalgamated Meat Cutters and Butcher Workmen. The strike fund of the latter organization is formed from a per capita tax of ten cents per month for each member; and the amount of strike benefit is definitely fixed at \$5.00 per week to each member after the first week of strike. A third system of strike benefits, adopted by the Western Federation of Miners, leaves the regulation of strike benefits to the local officials. Each local appoints a relief committee which joins with the dis-

¹¹ See Report of the Industrial Commission, 1901, Vol. VII, p. 268 et seq.

¹² Constitution, United Mine Workers, 1905, Art. II, sec. 6.

¹³ Constitution, Western Federation of Miners, 1903, Art. V, sec. 2.

¹⁴ The United Brotherhood, in common with the other national unions in the American Labor Union, intrusts its defense fund to the general federation for the purpose of conducting and supporting strikes; see Constitution, American Labor Union, 1903.

strict union in fixing the amount of strike benefit. In an emergency, however, the general executive board may levy a special assessment sufficient to meet current demands.¹⁵

The national executive board may declare a strike off so far as the national union is concerned whenever circumstances demand it. The local union may continue the strike as long as its treasury permits, but it receives no further aid from the national officials.

The efficacy of the general strike is strongly held by industrial unionists. One of the leaders of the Western Federation of Miners asserted that the Colorado strike of 1903-1904 might have been settled in a few weeks had not the railroad employees, bound by time agreements, rendered invaluable assistance to employers by remaining at work. In other words, the value of the strike as an instrument of coercion largely depends upon the amount of injury done to the business of the employer; and the maximum injury the industrialists claim may be inflicted through a general strike. Or, looking at the question from a different point of view, the locomotive engineer, for example, who works with a "scab" crew during a strike of the firemen or the trainmen may be warranted in doing so from a purely personal standpoint, but he has not the same right, it is argued, if the greatest good to the greatest number is the primary aim of the labor movement. This is practically the stand taken by the United Brotherhood of Railway Employees, a comparatively recent union, which strives to use the strongly organized departments in support of the weak. Thus, while some branches of the railway service are strong enough to exact favorable terms, others lack the necessary vitality to bargain successfully with employers. The national officials claim, therefore, that the existence of a central authority for all branches enables the organization to act as a unit in the redress of grievances.

¹⁵ Constitution, Western Federation of Miners, 1903, Art. IV, sec. I.

On the other hand, some leaders in the labor movement are opposed to this form of strike. The president of the American Federation of Labor has declared :

The so-called industrial system of organization implies sympathetic strikes and time and experience have demonstrated that as a general proposition they should be discarded, while strikes of particular trades or callings have had the largest number of successes with a minimum of defeats. By its methods one of our international organizations could be financially drained and actually ruined in a very brief period in an effort to sustain the members involved, while a well formulated trade union movement could be indefinitely sustained financially. The advocates of industrialism undertake to correct an error by the commission of a graver one.¹⁶

Ordinarily a distinction is made in the trade union world between a general strike or the strike of an industrial union and a sympathetic strike or the strike of an allied trades council. Briefly stated, a general strike occurs when all the members involved have a common grievance against their employers. For instance, since all brewery employees working under a common agreement with the brewery proprietors are equally interested in keeping the terms of the agreement inviolate, a strike of any one department in the brewery supported by the other trades represented therein is a so-called general strike. Thus, in theory the grievance of one trade is the grievance of all trades.

A sympathetic strike, on the contrary, involves work people having no direct grievance against their own employers who strike for the sole purpose of assisting members of associated trades on strike. A typical sympathetic strike would be the case of carpenters, bricklayers or electrical workers belonging to a trades council and employed on a building under separate agreements quitting work to help the cause of the striking elevator constructors, although the grievance concerns only one trade directly. In so far as the allied trades council has a single agreement covering the various unions in the council, however, a strike resulting

¹⁶ Proceedings, President's Report, American Federation of Labor, 1903.

from a violation of any part of the agreement affects all trades alike and may be classed as a general strike.

The industrial union may be contrasted with the allied trades council in the conduct of strikes. Alliances such as the International Building Trades Council and the Metal Trades Federation expect each trade strike to be financed by the national union of the craft which has a national treasury entirely apart from the national trades alliance. That the lack of adequate funds with which to aid striking unions has proved a serious weakness in administration is largely conceded by the abler leaders who are generally united in the opinion that in the absence of a strike benefit fund, the national organization has practically no discipline over the local bodies. On the other hand, the presence of a large central treasury from which striking members may receive financial assistance is sufficient guarantee in most cases that the national officers can safely assume entire charge of the strike and control the locals at all stages.

Although there seems to be no theoretical reason why the allied trades council may not accumulate a sufficiently large defense fund, practical difficulties have thus far stood in the way. Among the more important of these are: (1) the national trade union maintains an independent treasury to which its locals contribute; (2) the officers of a national union are often jealous of the powers conferred on the executive of a trades council and suspicious of the other unions as well; and (3) the expense pertaining to the administration of separate national unions serves to diminish the surplus income available for the treasury of the council. The industrial union in this particular, with but one national office, requiring a relatively smaller office force and with one journal for the whole industry, gains important economies in administration and has a much better opportunity to accumulate a national fund.

(e) More or less closely related to the strike as a favorite weapon of labor organization is the boycott. For effective

use, the boycott requires, first, a directive influence over the purchasing power of union members, and second, sufficient numerical strength to seriously cripple the business of the boycotted firm. The Knights of Labor as a type of organization satisfied both these requirements, exerting as it did the necessary control over the general membership and representing in many cases a large purchasing power in a single locality. The American Federation as a voluntary association may not possess the same authority to enforce a boycott, but it has exercised and continues to exercise considerable influence over the membership of its national unions.

The industrial union under ordinary circumstances, it is claimed, is prepared to use the boycott more effectively than the trade union. Comprehensive organizations like the United Brewery Workmen or the United Mine Workers, comprising different branches of extensive industries, may bring greater pressure to bear in the exercise of the boycott for the following reasons: first, their national executive is the central administrative authority for the different trades represented and may direct a boycott over a wider class area, and second, other things being equal, the industrial principle embraces under a single head a greater proportion of the purchasing strength of a given community.¹⁷ In the last analysis it still remains true, however, that the success of any boycott depends largely upon the support not of one trade or industry but of organized labor in general.

In the agitation of a boycott, labor journals play a leading part. The firms against whom the unions have grievances are placed on an unfair list which is published regularly in the union weekly or monthly papers. Fac-similes of the different labels in use are also printed in the columns of these publications, and in the last few years large sums have been spent by certain unions, partly resembling the indus-

¹⁷ A further development of the boycott is the refusal of the industrial union to handle raw material unless it is purchased from union firms. A trade union cannot effectively make such a demand of the employer since it represents only a portion of his working staff.

trial type, notably the United Hatters, the United Garment Workers and the Boot and Shoe Workers, in advertising and extending the use of union made goods.¹⁸ Thus a form of negative boycott, less direct but oftentimes accomplishing more permanent results, is the exclusive patronage of union stamped goods. Such articles as hats, shoes, cigars and tobacco, ready-made clothing and beer are largely in demand by the laboring classes; and it is principally in these articles that machinery is playing a growing part and the proportion of unskilled to skilled is rapidly increasing. This condition is often emphasized as a further argument in favor of the industrial union.

(f) In the foregoing pages reference has been made to the claim repeatedly advanced that the industrial union has a strategic advantage over the trade union in bargaining with employers and that one element in this superiority is the control exercised by a central authority over a larger and more representative body of work people in a single locality. The same causes operate to increase the effectiveness of the industrial union in political activity. Certain unions, such as the United Mine Workers and the United Brotherhood of Railway Employees, however, prefer to hold aloof from party political affiliation and to direct their attention more particularly to the candidate or the measure.¹⁹ Other unions,

¹⁸ The president of the Mine Workers in a recent annual report declared. "There are two kinds of organization that deserve our consideration. First, we should organize as producers; second, and of no less importance we should organize as consumers. In order that our members may more thoroughly familiarize themselves with the labels of the various trades, I would recommend that our national secretary be instructed to procure and transmit to each local union a card or pamphlet bearing fac-similes of the labels of the various organizations"; Proceedings, Fifteenth Annual Convention, United Mine Workers of America, President's Report, p. 35.

¹⁹ The activity of the more conservative industrial unions in politics is illustrated by the following recommendation: "There are two bills pending in the United States Congress which deserve and should receive the indorsement of this convention, and the active support of all local unions. They are the Anti-Injunction Bill and the Eight-hour Bill. I would recommend that the national secretary be instructed to ascertain the exact status of these bills, to secure their proper numbers and titles and to send a circular letter con-

notably the Western Federation of Miners and the United Brewery Workmen, are actively engaged in advancing the interests of a definite cause through active participation in party politics. In fact the Brewery Workmen and the Western Federation of Miners seem to have been organized partly with a view to political activity. Their printed documents reveal a conscious effort to convert the organization on occasion into an effective voting machine, and to gain the necessary unity of sentiment by adopting the principles of socialism and directing the whole membership in an endeavor to establish the socialistic commonwealth.

The following extract from one of the official journals gives a general idea of the stand taken by the more radical unions :

The United Brewery Workmen have from the beginning affiliated themselves with the radical wing of the labor movement represented by the socialist party. They have realized the passing of strikes and boycotts as means of permanent reform and have advocated the ballot to overthrow capitalism. Any reform under the capitalist system is at the best temporary and merely patchwork. So long as the present system of industry continues, strikes and boycotts are necessary evils, to be removed as soon as economic and political forces join hand in a common movement. Socialism, the union of industrial and political forces, is the result of maladjustment in the present system of production.²⁰

Likewise the president of the Western Federation of Miners in his report to the national convention of 1902 declared :

The most important action which you can take at this convention is to advise the members of your organization to adopt the principles of socialism without equivocation. . . . I earnestly hope that the members of the Western Federation of Miners and the members of all other labor organizations will in the immediate future meet in convention for the purpose of taking political action regardless of

taining information to each of our local miners, with such instructions as will enable our members collectively and individually to petition their representatives in Congress to vote for these measures"; see Fifteenth Annual Convention, United Mine Workers, 1904. President's Report, pp. 35, 36, and 171.

²⁰ Brauer Zeitung, February 22, 1896.

the dominant political parties in either country, for no member of organized labor can be a true member of a labor organization and a member of the Republican, Democratic, Conservative or Liberal parties; and I suggest that this convention extend an invitation to all labor organizations to meet in convention for the purpose of outlining a plan by which we can unite for political action.²¹

Two years later the executive board of the Federation, expressing the belief that strikes and boycotts are "but primitive and crude methods for the settlement of controversies between employer and employee," recommended that independent political action be taken by all wage earners as the most practical solution of industrial problems. Finally, at the same session the delegates adopted a resolution pronouncing the Socialist Party to be "the only source through which the toiling masses can secure for themselves complete emancipation from the present system of wage slavery," and thus definitely committed the organization to the principles of international socialism.²²

(g) One reason for the rise and apparent success of the industrial union in some industries has been the difficulty experienced in adjusting jurisdictional disputes.

To prevent the injurious effects of rival claims and to encourage more friendly relations between trades whose boundaries are constantly overlapping, unions sometimes form jurisdictional agreements. The Amalgamated Society of Engineers, originally an English industrial union comprising pattern-makers, machinists, millwrights, brass furnishers, coppersmiths, etc., established an American branch which became affiliated with the American Federation of Labor. Whenever any of the trades represented in the industrial union, *e. g.*, the machinists, came into competition with the members of the corresponding trade organized as a separate union, serious trouble arose. In 1902, the executive council of the Federation decided to expel the Amalgamated Society in order to rid the organization of

²¹ Proceedings, Western Federation of Miners, Tenth Annual Convention, 1902, Report of the President.

²² *Ibid.*, Twelfth Annual Convention.

annoying discord.²³ A short time thereafter, in 1904, the International Union of Machinists, one of the most important of the unions whose interests brought it into direct conflict with the Amalgamated Society of Engineers, formed an agreement with the latter organization for the purpose of enabling members of the union to work peaceably together.²⁴ In theory, an agreement of this character, entirely aside from the success or failure of this particular instance, has certain features which distinguish it from similar agreements formed between unions of single trades. Besides covering a larger field, it establishes a definite working basis for the several trades in the industry without the delay and trouble necessarily attending separate conferences for each of the trades represented therein.

In the absence of formal agreements between labor unions, the American Federation of Labor and the allied trades councils, as indicated above, have attempted to settle disputes by voluntary arbitration.²⁵ But inasmuch as the extreme penalty ordinarily at their command has been the suspension of any union refusing to accept the decision of an impartial board, the federations have lacked the necessary power of enforcement and have often failed signally to lessen the tension between rival unions.

The following resolution, designed to remove this defect, though defeated in the 1903 convention of the American Federation of Labor, expresses fairly well the prevailing sentiment among industrial unionists:

Since the jurisdiction disputes between national and international unions are becoming more acute every year, and since this warfare is the result of labor organizations having failed to adapt themselves to economic development, Resolved, That the 23rd Convention of

²³ American Labor Union Journal, Vol. II, Nos. 18 and 23. February 4 and March 10, 1904.

²⁴ See Baltimore Sun, October 8, 1904; also Machinists' Journal, September, 1904, p. 790. The referendum vote on the agreement when submitted to the membership resulted in an overwhelming majority in its favor.

²⁵ An important agreement of this character exists at present among the trades in the printing industry.

the American Federation of Labor appoint a committee whose duty it shall be to study the situation and report to the next convention a plan by which the trade unions can be grouped together on industrial lines.²⁸

With all trades represented in the industry under a single national control, the advocates of this measure confidently expected to reduce the number of jurisdictional disputes and to add to the effectiveness of the unions involved.

Whenever local jurisdictional disputes cannot be satisfactorily adjusted by the local executive board, an appeal is taken to the national executive board whose decision is binding on all parties involved until the next annual or biennial convention. There are certain peculiarities in the structure of industrial unions which strengthen the power of the executive board in this field of activity. A non-centralized alliance like the American Federation of Labor, for example, or even the allied trades council, has little power to enforce its decisions compared with an autonomous industrial union like the United Brewery Workmen or the United Mine Workers. Temporary suspension or expulsion from the voluntary association of independent trades—the extreme penalty—is a mild form of punishment, inasmuch as the disciplined union may affiliate with a rival federation. On the other hand, where each branch of the industry depends upon one national organization to maintain favorable trade conditions, the decisions of the national board are usually obeyed.

²⁸ Proceedings, American Federation of Labor, 1903, pp. 160, 161.

**MARYLAND DURING THE ENGLISH
CIVIL WARS
PART I**

SERIES XXIV

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MARYLAND DURING THE ENGLISH
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PART I

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MARYLAND DURING THE ENGLISH CIVIL WARS. PART I.

INTRODUCTION.

For the past twenty-five years the Maryland Historical Society has been publishing for the State its Provincial Archives, at the rate of rather more than one volume a year, and the volumes which have appeared add much to our knowledge of the seventeenth century history of the Province. The Calvert Papers and other sources, which have been brought to the knowledge of men since Scharf's History of Maryland was issued, a generation ago, have thrown much light upon the same period. It is high time to make a careful study of the period, in view of this new information, and to place in their proper relations the facts previously known and those recently brought forth. This study was begun some years ago, and the first section of it was published in the twenty-first series of the Studies during 1903 under the title of the "Beginnings of Maryland." That monograph carried the history of the Province from its first settlement down to 1639. The present publication is a continuation of the same work, carrying the narrative forward from the date at which the earlier one concluded to the end of Lord Baltimore's difficulties with the Jesuits. It is hoped that a third part will relate the story of the succeeding years to the end of the English Civil Wars.

By New Year's Day, Old Style, 1639, the Province of Maryland had been settled for five years, during all of which time Leonard Calvert had directed its affairs. In this time St. Mary's had been settled, Kent Island subdued, Claiborne's pretensions to any part of the Province disallowed, amicable relations established with the Virginians and the

Indians, the first Assembly held, the first statutes made, the first crops grown on the new estates which had been granted by the Proprietary—in a word the beginnings of Maryland had come to an end. The student of the Province's history now approaches a period of troubles with the Indians and the Parliamentarians, of the intrusion of Ingle in the Provincial affairs, of Leonard Calvert's flight from the Province, of his reconquest of it and his death, of rumors of war from the great struggle between King and Parliament and of the famous act for religious toleration. To the study of this period we now address ourselves. It is the period of the English Civil Wars, yet these struggles have faint echo in the Provincial Records.

INDIAN TROUBLES OF 1639 AND 1640.

On March 20, 1638–9, the day after the adjournment of the Assembly, Calvert took, before the Secretary,¹ the oaths of allegiance and for the administration of equal justice, and administered the former oath and the one for the Councilor to Cornwallis, Brent, and Lewger. Lewger was also sworn as secretary of the Province and Brent as treasurer, and Thomas Baldrige was chosen and sworn as sheriff and coroner for a year. Matters moved smoothly in the Province for a time, save as to the Indians. Several men² patrolled the waters of Maryland to check trade with the Indians without Calvert's license and to bring unlicensed traders to St. Mary's.

Licenses are recorded³ permitting men⁴ to trade with the Indians for corn, but not to sell them arms or ammunition, and permitting corn bought from the Indians in 1639,

¹ 3 Md. Arch., Coun., 85. The form of the oath of allegiance was contained in an act introduced, but not passed, at the last Assembly. 1 Md. Arch., Ass., 40.

² 3 Md. Arch., Coun., 83–85, 91. John Harrington, Cuthbert Fenwick, John Hollis, Thomas Boys, Henry Bishop.

³ 3 Md. Arch., Coun., 84, 87, 91.

⁴ Andrew Chappell, Thomas Morris, Wm. Brainthwait, Thomas Games or James.

doubtless a plentiful year, to be exported northward of the Chesapeake Bay, especially to England.

The relations of the Virginians with the Indians were unfriendly and a great massacre of whites took place about this time.⁵ The Susquehannocks and some Eastern Shore Indians were troublesome in 1639, and on May 28 Calvert, with⁶ two of his three Councilors, determined to make an expedition against these tribes and to send to Virginia a shallop manned by five men pressed for that purpose, to procure there twenty corselets, a barrel of powder, four roundlets of shot, a barrel of oatmeal, three firkins of butter, and four firkins of hot waters (i. e. spirituous liquors). The equipment is interesting, as is the fact that it had to be got in Virginia. When the supplies came a pinnace was to be sent to Kent and another to the Susquehannocks' country. To man the expedition thirty or more "good shot" (a curious instance of an early use of a common expression for a marksman) with necessary officers should be pressed. Each of the shot was to be provided with victuals and paid one hundred pounds of tobacco a month or given another man, "a good laboring hand," in his room to tend his plantation. There were to be two sergeants, who should receive double pay. On the next day Giles Brent⁷ was made a captain of the military band of St. Mary's, "to lead and command them and exercise them in discipline military," training all the inhabitants but the Councilors on "holy days and at other needful times," and viewing the provision of arms and ammunition at every dwelling house, once monthly if necessary. We have absolutely no further knowledge as to this expedition.

Just in the beginning of January, 1639-40, Calvert sent⁸ a commission to Nicholas Harvey, authorizing him to lead

⁵ Bozman, *History of Md.*, v. 2, 161.

⁶ Brent and Lewger, 2 Bozman, 162. Planning to leave St. Mary's for a time, Calvert appointed Cornwallis judge; 3 Md. Arch., Coun., 85.

⁷ Cornwallis was probably absent; 3 Md. Arch., Coun., 86.

⁸ 3 Md. Arch., Coun., 87; 2 Bozman, 165.

any volunteers, well armed men, over twelve in number, against the Maquantequats only, who "have committed sundry insolences and rapines upon the English" in Maryland, and to "inflict what may be inflicted by the law of war," and to divide the "pillage and booty therein gotten" among the company.⁹ We know nothing of this expedition, nor why, later in the month, Calvert proclaimed that as "we are in peace and amity" with the Patuxents "I have taken them into our protection and prohibit all Englishmen from offering injury" to these Indians. Even among the Patuxents there were occasional unfriendly acts and, on February 3, Calvert directed a sufficient number of the inhabitants of Mattapanient hundred to be pressed to go to Aquascack on the Patuxent¹⁰ and to demand of the Indians there the man who killed an Englishman in Anthony Cotton's boat.

KENT ISLAND AND CLAIBORNE'S PROPERTY.

On February 3, 1639-40, William Brainthwait¹¹ was succeeded by Capt. Giles Brent as commander of Kent. In the previous month Calvert directed the surveyor to lay out for Brent one thousand acres, lying about Kent Fort in the southern part of the island, and the same amount elsewhere. This Manor of Kent Fort included the site of Claiborne's settlement.¹² Brent's commission was similar to that given Brainthwait, who was associated with Capt. John Boteler and Thomas Adams as commissioners to act with Brent, except that there was no limit assigned to his original civil jurisdiction. In April Brainthwait was reinstated¹³ as commander and Brent was asked to advise with the commissioners "in all greater causes"

⁹ 3 Md. Arch., Coun., 87.

¹⁰ 3 Md. Arch., Coun., 88.

¹¹ 2 Bozman, 165; 3 Md. Arch., Coun., 89.

¹² See Steiner in 165 J. H. U. Circ. Claiborne on June 30, 1640, in Virginia showed the court there that he, as administrator of Capt. Thos. Smith, had paid as far as the assets would go and was discharged. Streeter, Md., Two Hundred Years Ago, p. 23.

¹³ 3 Md. Arch., Coun., 90.

in the Court and on all other occasions of importance. The manor remained in the possession of the Brent family until 1782, when it was conveyed to Samuel Chew. Later the title to the land came before the United States Supreme Court for determination twice, in 1866 and 1869.^{12a}

The property of Claiborne and of Cloberry and Morehead was attached¹⁴ in January, 1638-39, on the ground that they had defended Kent Island against Baltimore's title, traded with the Indians contrary to his rights, felled the best timber trees for pipe staves, and otherwise disturbed the peace. They had been summoned to appear at St. Mary's before February 1, and, as of course they did not come, the property was forfeited. In 1640 Claiborne was busily prosecuting his case against his partners,¹⁵ with whom he had fallen out, and on August 8 he gave a power of attorney to George Scovell of Nansemond to recover his Maryland¹⁶ property, possibly in bravado, or to keep color of right to it. Scovell petitioned to be allowed to recover the estate, and was sarcastically answered that the estate Claiborne left in Maryland at his departure had been forfeited to the Proprietary for the crimes of piracy and murder whereof Claiborne was attained; but if Scovell can find out any of that estate not possessed by Baltimore, "he shall do well to inform his Lordship's attorney of it, that it may be recovered to his Lordship's use." If Claiborne had acquired property in Maryland since the attainder, the general law of Province gives Claiborne's attorney "free power and authority to recover it and, when

^{12a} Deery v. Cray, 5 Wallace Reports, 795, 10 Wallace, 263.

¹⁴ 3 Md. Arch., Coun., 82.

¹⁵ 5 Md. Arch., Coun., 181.

¹⁶ 3 Md. Arch., Coun., 92; 2 Bozman, 169. Ethan Allen, "Md. Toleration or Sketches of the Early History of Md. to the Year 1650" (1855), p. 29, states that Claiborne, as administrator of the Rev. Richard James, the Kent Island minister, brought into court at James City his inventory and account, and alleged that the Governor of Maryland had seized on the greater part of the estate of Mr. James and still detained it. James died at Sir Robert Cotton's in England in 1638, and curiously had been in Newfoundland when Baltimore was in Avalon. See Wood's *Athenae Oxoniensis*.

it is recovered, such order shall be taken with it as justice shall acquire."

Only testamentary court business is recorded during this time, there being a break in the other court records from 1638 to 1642. A few estates are settled, the details of whose inventories are interesting in giving glimpses into colonial life.¹⁷

ST. CLEMENT'S MANOR.

Mr. Thomas Gerard was granted, on November 3, 1639, a manor¹⁸ bearing the name St. Clement's and with the usual power of holding a court leet and a court baron, and the territory of this manor, with some additional land, was erected into St. Clement's hundred, a proclamation making Gerard justice of the peace therefor and giving him the powers of any two justices of the peace in England, which was probably in order to permit him to punish offenders against the game statutes.¹⁹ As conservator of the peace, Gerard was especially charged to punish offenders who destroyed herons on Heron Island, and unlawful traders with the Indians, and to see that the inhabitants were provided with necessary arms. John Robinson was appointed²⁰ constable and coroner of the hundred and directed to arrest offenders, especially such as "unlawfully trespass upon any our game of deer, turkeys, herons, or other wild fowl," sell to the Indians arms or ammunition,

¹⁷ (1) Richard Loe, 4 Md. Arch., Prov. Ct., 57, 74; (2) Andrew Chappell, *op. cit.*, 57, 90, 112; (3) Michael Lums (nuncupative will), 59, 60, 89, 111, Baldwin Calendar; (4) Wm. Wassell (Kent), 60, 90; (5) Henry Crawley, 61, 91 (guardian appointed for his legatee, 65, 66), Baldwin Calendar (nuncupative will); (6) Thomas Cooper, 64 (Kent ?); (7) John Glanham, 64, 92; (8) Richard Lee, 51, 76, 107, Baldwin Calendar; (9) Thos. Egerton, 89, 106; (10) Lawrence Mullock (Kent), 92; (11) Christopher Martin, 92. Baldwin adds John Speed, Leonard Leonardson, and Robert Cooper of St. Mary's, and Wm. Westly of Kent.

¹⁸ 2 Bozman, 167; St. Clement's Isle and Heron Isle, and the mainland between Herring and St. Catharine's creeks (3 Md. Arch. Coun., 89) and extending northward five miles into the woods.

¹⁹ 2 Bozman, 169.

²⁰ 3 Md. Arch., Coun., 89, 91.

or do not have ready sufficient arms. In England^{20a} wild animals were the property of the lord, and Baltimore meant to enforce his claim to have them included among *jura regalia* of his Palatinate.

THE JESUITS' MISSIONARY LABORS.

In order to obtain "an earlier acquaintance with the Indian language and propagate more widely the sacred faith of the gospel,"²¹ the Jesuits scattered themselves. Father John Brock, the superior, and a coadjutor brother²² remained on the plantation Mattapanient or Mattapany, given by Maquacomen, the Patuxent sachem, which plantation was their storehouse of supplies and was managed by Thomas Copley. Father Philip Fisher lived at St. Mary's, Father John Gravener at Kent Island and Father Andrew White at Kittimaquund, the seat of the Piscataways, one hundred and twenty miles away. He had devoted his endeavors for some time to achieve the conversion of the Patuxent chief, and at first had good hopes of success, but gradually the chief showed unfriendliness, not only to the new religion but also toward the whites in general. Calvert, therefore, recalled White lest the sachem should do him harm or, by

^{20a} In 1639 the Lady Anne Arundel, Lord Baltimore's wife, died. A portrait of her by Van Dyck is said to be at Wardour Castle. Browne, George and Cecilius Calvert, 118.

²¹ See B. U. Campbell, *Sketch of the Early Christian Missions among the Indians of Md. & Western Cont.*, 13 (Mch. 28, 1846); Shea's *Catholic Missions among the Indian Tribes*, p. 483. See U. S. Cath. Hist. Soc., Proc., 1904, *Earliest Jesuit Missionary Explorers in Md. & Me.* 7 Md. Hist. Soc., Fund Pubs., 62. On Father White and the priests see Neill, Eng. Col., 266. Cotton, *Way of the Congregational Churches Cleared*, p. 80, tells an amusing story reported to him by the Rev. James, who went to Virginia on the Lord's work and was detained by winds in Maryland, where he saw forty Indians baptized in new shirts, which the Catholics had given them for their encouragement unto baptism. But he tarried there so long for a fair wind that, before his departure, he saw the Indians, when their shirts were foul and they knew not how to wash them, come again to make a new motion: either the Catholic English there must give them new shirts, or else they would renounce their baptism. Campbell's paper is reprinted in Md. Hist. Mag. for Dec., 1906.

²² Probably Walter Morley, who came in 1638 with Father Ferdinand Pulton and died March 6, 1641. Father Brock was also known by the name of Morgan.

holding him as hostage, prevent Calvert from punishing the tribe for any hostility. Despairing of Maquacomen's salvation, Father White betook himself, in June, 1639, to the palace of the Tayac, the Piscataway chief, Chilomacoon, who had slain his predecessor and brother, Uwanno, and who held sway over a territory stretching over about one hundred and thirty miles. At his wigwam, situated about fifteen miles south of the present District of Columbia, both the chief and his wife received the father kindly and held him in the greatest love and veneration, lodging him in their own wigwam, while the "queen" prepared meat and baked bread for him. Dreams and the favorable outcome of Father White's medical treatment of the Tayac caused him to wish baptism for himself, his wife, and his two daughters. He was diligently instructed by Father White, exchanged his raiment of skin for one made in European fashion, made a "little endeavor" to learn English, and put away his concubines, living "content with one wife that he may the more freely (as he said) have leisure to pray to God." He abstained from meat on fast days, was "greatly delighted with spiritual conversation" and seemed, to the good father, to esteem earthly wealth as nothing in comparison with heavenly. The character of the new convert was most edifying. In "a crowded assembly of the chiefs and a circle of the common people," Father White and some of the English being present, he publicly announced that it was his advice that they all "give their names to Christ." The priests hoped the conversion of the whole tribe would follow his baptism. Toward baptism the Tayac was especially inclined because of an incident which happened during a visit he and Father White made to St. Mary's. An Indian had been found guilty of the killing of an Englishman and had been sentenced to be hanged, though we have no record of the trial. The priests were striving to convert the condemned man and the Tayac aided them, not only as an interpreter, but also by adding arguments of his own. The prisoner was converted, baptized, and made a brave end. He

was then buried in the consecrated graveyard, to show the barbarians that Christians held dear the souls of repentant malefactors. The Tayac asked that he too might be baptized and, after consideration, the Jesuits determined to perform the rite with splendid display. The Tayac, therefore, returned home with Father White and the ceremony was performed in a bark chapel he had erected at Kittamaquund. So on July 5, 1640, the Tayac, with his queen, his infant son, and some of his principal men, was baptized. Previously his name had been Chitomachen or Chilomacón, now it should be Charles, and his wife was christened Mary. The Governor and Secretary were present, and in the afternoon the King and Queen were married by Christian rites and the great holy cross was erected, being carried to its place by the King, the Governor, the Secretary and others, while two of the priests chanted the litany in honor of the Virgin. Father White contracted a fever from over-exertion in these long services and was ill until the winter. In the spring the King brought his seven year old daughter to St. Mary's to be educated among the English, and to be baptized when she should understand the Christian religion.

One reason why the Jesuits had this hold upon the Indians was the fact that when famine prevailed among them, on account of the great drought of the summer of 1639, that "we might not appear to neglect their bodies" for the care of whose souls "we had made so great a voyage," the priests assisted to relieve their want of bread. So not only the Piscataways were affected, but the king of the Anacostans was anxious to live among the Jesuits.

Their work was not among the Indians alone. On the principal festival days of the year sermons were preached at St. Mary's and, on the Lord's Day, catechetical expositions were given. To these services not only Roman Catholics, but also heretics, came, and twelve conversions were recorded in 1639. To the sick, the afflicted, and the dying the priests gave counsel, relief, and assistance of every kind. In the summer of 1640 Father Gravenor suf-

ferred from some disease of his feet, so that he could not walk. He recovered from this, but was afterwards afflicted with an abscess and died on November 3. In this year portents were seen, confirming the minds of the faithful and terrifying the scoffers.

On July 5, 1641,²³ Father Brock died. He had been a man of great devotion to his work and wrote, "For my part, I would rather, laboring in the conversion of the Indians, expire on the bare ground, deprived of all human succor, or perishing from hunger, than ever think of abandoning the holy work of God for fear of want."

The Jesuits had also plans for education, and the English superior of the order wrote to Father Brock, on September 15, 1640, "The hope of your establishing a college, which you hold forth, I embrace with pleasure and shall not delay my sanction to the plan when it shall have reached maturity." Joyful letters are also extant which were sent from England because of the good news from Maryland.²⁴ The general situation of the religious point of view is well summed up by the historian Gardiner:

"In²⁵ Maryland the Protestants, slack in zeal and dependent for organization upon their Catholic leaders, in all probability, never thought for an instant of erecting a dominant church, whilst the Catholics, planted in the midst of zealous Protestant settlements on either side, and depending for support on the good will of the King, could not venture, even if they had wished it, to oppress their Protestant fellow colonists."

THE FOURTH GENERAL ASSEMBLY.

The fourth general Assembly of the Province was held at St. John's, near St. Mary's, from Monday, October 12

²³ Neill, *Terra Mariæ*, 70, 71. We must remember the presence of Copley, who was probably a priest and to whom Roman Catholics bequeathed slight testimonials. (See Wm. P. Treacy's *Early Catholic Md.*)

²⁴ B. U. Campbell's *Hist. Sketch of the Early Christian Missions among the Indians of Md.* 1 West. Cont., 13 (Mch. 28, 1846).

²⁵ 8 *History of England*, 180 and 181.

to October 24, 1640. On August 14 the Governor summoned²⁶ William Brainthwait, Commander of the Isle of Kent, to have chosen burgesses, from one to four in number, by the freemen of the island, and Giles Brent, Treasurer of the Province, to appear in person. Nearly a month later,²⁷ on Saturday, September 12, the freemen of St. Mary's hundred were bidden to appear before the Secretary and to choose one or two burgesses, and those of St. George's and St. Michael's to do the same before the sheriff. Those of St. Clement's should choose one burgess before John Robinson, high constable of the hundred. Personal summons was also issued to Thomas Greene and Fulke Brent. A week later a third summons was sent to Mattapanient hundred to choose one burgess, and a personal summons to Cuthbert Fenwick, as Cornwallis's attorney. Greene and Giles Brent were also elected burgesses, as was Lewger, the Secretary; Fulke Brent was absent, so that, with Leonard Calvert, the Assembly consisted of fourteen members.²⁸ After the organization of the House it rejected a proposition to have a bill drafted for "stinting the planting of tobacco," a proposition we shall encounter frequently throughout Provincial days. It was voted, however, to draw up a bill for "destroying of unsound tobacco." This act, the beginning of Maryland's inspection system, was passed, and provided that no tobacco should be exported from the Province until it was sealed by a sworn viewer, three of which officers should be appointed in every hundred by the commander of every county. The act, which was to continue in force for two years, provided for inspection fees, for forfeiture of uninspected tobacco, gave a definition of bad tobacco, and provided that such should be burned.²⁹

²⁶ 1 Md. Arch., Ass., 87. A different day was selected for each of the hundreds, and Brainthwait and Robinson were allowed to select the date of their elections.

²⁷ 1 Md. Arch., Ass., 88.

²⁸ From Kent were chosen Giles Brent, Thos. Adams, Thos. Allen, and Jno. Abbott; from St. Mary's, Thos. Greene and Jno. Lewger; from St. Michael's, Thos. Morris and Thos. Baldridge; from St.

On the same first day John Dandy was summoned to answer for some crime,⁸⁰ showing that the Assembly was still a court, and a proclamation was issued⁸¹ prohibiting any person from going on board any vessel⁸² importing goods to be retailed in the Province, or from informing any one connected with the vessel of the "rates or quantity of tobacco or want of goods within the colony, before liberty of trade proclaimed at the fort," nor then at a higher rate than that proclaimed, under pain of such punishment as the Assembly saw fit. The people on the vessel were also forbidden to "deal for any goods with any inhabitant," or to land, except at the Governor's landing place, before he gave license, on such penalty as should be thought fit.⁸³ Trade monopoly, for which the Pro-

George's, Francis Gray and Geo. Pye; from St. Clement's, Robt. Vaughan, and from Conception, Robt. Lusthead. Only seven men voted in St. Clement's. We have no other figures. The Assembly voted the clerk 5s. per diem and 12s. for every private bill and the sergeant-at-arms 12s. per diem. 1 Md. Arch., Ass., 90. The burgeses were to pay the fees and charge them to their counties.

⁸⁰The viewer's oath is given in full. More attention was paid to this act than to any other. 1 Md. Arch., Ass., 98. The importance of the tobacco trade to the Province seems to make it worth while to repeat this definition: "Bad tobacco shall be judged ground leaves, second crops, leaves notably bruised or worm eaten, or leaves house burnt, sun burnt, frost bitten, weather beaten in the house, sooty, wet, or in too high case, so that the viewer on his conscience may reasonably think that it is not likely to last until midsummer following." Virginia had an inspection law in 1624. 2 Bozman, 176.

⁸¹1 Md. Arch., Ass., 89, 92. He does not seem to have been tried by the Assembly but was condemned to death for some crime about this time, and on May 10, 1641, "upon the petition of a great part of the Colony," the Governor changed his sentence to "three years' service to the Lord Proprietary, wherewith the said Dandy was well contented." 3 Md. Arch., Coun., 98. He was a violent man and was finally put to death for murder, as we shall see.

⁸²1 Md. Arch., Ass., 90, signed Wm. Bretton, Clerk. His salary was changed on Oct. 22 to fifty pounds of tobacco, showing an exchange value of tobacco of ten pounds to the shilling. 1 Md. Arch., Ass., 93. At the same time the sergeant-at-arms' per diem allowance was lowered to 6s. 2 Bozman, 173.

⁸³This proclamation seems to have been caused by some trouble about the pinnacle belonging to Thos. Weston or Thos. Games. 1 Md. Arch., Ass., 91.

⁸⁴1 Md. Arch., Ass., 91. A tie caused a bill to fail. The rule requiring a day to intervene was rescinded Aug. 6, 1641. 1 Md. Arch., Ass., 105.

prietary had struggled from the first, was still held important, but the proclamation for some reason was reversed on the last day but one of the session. The rules were chiefly those of the third Assembly, but a new provision was made that a bill must be read three times on three days, a day being also interposed between each reading, and that when rejected on the second reading the bill might not be propounded again at the session. I have an idea that Baltimore had sent over a draft of acts, for we notice that the "draft of the acts upon the book" were read and no reference is made to the drafting of the acts. Further, the rules say that "at the session all the bills engrossed shall be read and severally voted." At least nineteen bills were rejected on October 23, and nine were passed besides the tobacco act.³⁴ The enactments were published under the great seal, on October 30, and may be classed as follows: The rights, liberties, franchises of "Holy Church" were affirmed. "Uncertain goods" escheated to the Proprietary and should be sold "at an outcry," half the proceeds going to the finder, but the goods might be redeemed within three years.³⁵ To provide against sudden accidents in the government it was enacted that the commission from the Lord Proprietary in force at his death should remain in force until a new commission should be sent, and the "First Councillor of State residing at St. Mary's" should exercise the office of lieutenant general if the Governor died or went out of the Province without naming a successor.³⁶ These were permanent laws.

³⁴ Five opposed it, but among them was the President, Calvert. 1 Md. Arch., Ass., 93. In every other case his negative was enough to defeat the bill, why not here?

³⁵ Bacon, in 1763, considered this law still in force, and 2 Bozman, 174, finds no repeal of it, but notes that Kilty does not print it as of force when he revised the laws in 1796, considering it as abrogated by the Revolution. The rights have undoubtedly passed to the State.

³⁶ 2 Bozman, 176.

³⁷ 3 Md. Arch., Coun., 98. On July 4, 1641, the sheriff of St. Mary's and the deputy surveyor were ordered to inspect the plantations in St. Mary's, St. Michael's, St. George's, and Mattapanient hundreds to find out whether the required amount of corn was planted. This act was probably passed as that of 1639, assigning no penalty for violation.

The temporary ones, enduring for two years, compelled planters to fence corn ground against cattle, forbade the exportation of corn, but required that two acres of corn be tended by every man planting tobacco,³⁷ regulated marriage, and placed the entire control over it in the secular authorities,^{37a} fixed the outfit to be given indentured servants at the end of their term of service, and authorized county courts to "moderate the bills, wages, and rates of artificers, laborers, and chirurgeons." The Assembly had worked constantly, not even adjourning over Sunday, and had been harmonious, save that Thomas Adams³⁸ was censured and made to ask the Governor's forgiveness for "some indecent speeches touching the Lord Proprietary." Adams became so submissive and did such acceptable service as Commissioner of Kent Island that he was pardoned, on March 6, 1640-41, for "piracies" committed in the past.³⁹ When the work of the Assembly was complete the Kent Island men went home in the *Speedwell*, which had been waiting for them during four days,^{39a} and a committee of three was left behind to assess the public charges.^{39b} This custom became quite regular in later sessions.

Father More, the English Provincial of the Jesuits, writing to the Congregation for the Propagation of the Faith in 1642, said that the Assembly of October, 1640, was "composed, with few exceptions, of heretics," and that Lewger tried to pass laws "repugnant to the Christian faith and ecclesiastical immunities: that no virgin can inherit unless she marries before twenty-nine years of age" (in another part of the paper he says Lewger made this point against any "virgin making a vow of virginity and not marrying after the twenty-fifth year of her age"); that no ecclesiastic be summoned except before a secular judge, that "no ecclesiastic shall enjoy any privilege, ex-

^{37a} Johnson, *Foundation of Md.*, p. 63, thinks this was part of Baltimore and Lewger's policy against ecclesiastics.

³⁸ 1 Md. Arch., Ass., 92.

³⁹ 3 Md. Arch., Coun., 96.

^{39a} 1 Md. Arch., Ass., 93.

^{39b} 1 Md. Arch., Ass., 95.

cept such as he is ably to show *ex Scriptura*," nor gain anything for the church, except by the gifts of the Prince, nor depart from the Province, even to preach to the Indians, without a license from the magistrate, nor exercise jurisdiction within Maryland which is not derived from the Baron. He goes on to state that "the Fathers of the society warmly resisted this foul attempt," which firmness enraged Lewger so that he reported to Baltimore that his jurisdiction was interrupted by the Jesuits, which report alienated Baltimore's mind from them.^{39c}

EVENTS OF 1641.

The records of the next year are very meagre, the court records giving us only one testamentary case and one marriage.⁴⁰ On November 9, 1640, Calvert issued a proclamation against forestalling, declaring that no one importing goods should deliver them until he had agreed on rates with the Governor, and, when the rates were agreed upon, they must not be increased by sellers. No one might buy goods to sell them again until seven days from the breaking bulk, if the goods came from a pinnace, and twenty-eight days, if they were from a larger vessel.⁴¹ No goods bought in Virginia should be resold in Maryland without Calvert's permission. A copy of this proclamation must be affixed by the sheriff on the mast of every vessel which might come into his county. In the same month three men were appointed⁴² "viewers" in St. Clement's hundred, and shortly thereafter the constable of that hundred, at the complaint of William Bretton, was directed to repair to the king of any Indian town whose men had done Bretton "much harm in

^{39c} Johnson, 81; Dennis, 1 *Am. His. Ass. Rept.*, 1900, p. 112, thinks this statement that the Assembly was under Protestant influence is incorrect, and that the opposition of the Roman Catholics, Brent, Gerard, and Greene, prevented the repeal of the laws inimical to the Jesuits; p. 117.

⁴⁰ Thos. Holt died. Richard Thompson and Ursula Bish of Kent married; 4 *Md. Arch.*, Prov. Ct., 65.

⁴¹ 3 *Md. Arch.*, Coun., 94. The proclamation seems not to have been in force long.

⁴² 3 *Md. Arch.*, Coun., 95. See 1 *Md. Arch.*, Ass., 97, act of 1640.

his swine" and demand satisfaction. If this was refused he should summon the king or great men to St. Mary's, telling them that if satisfaction were not made, Bretton would be given "free liberty" to "right himself upon any the persons or goods belonging to that town."

About March, 1641, Mathias de Sousa, an indentured servant of Lewger,⁴³ was appointed by Capt. Alexander Pulton to go in his place as shipper and trader to the Susquehannocks and to hire men at Kent for the voyage. At Kent he hired John Prettyman with Brent's consent. Prettyman was on the voyage for two months lacking three days, and de Sousa later testified that he believed the pinnace and men were saved from destruction by the Susquehannocks by Prettyman's means. On December 7, 1640, Calvert notified the sheriff of Kent, in which island new patents were given the settlers by Baltimore in 1640, that he must demand of the settlers there the rent due, namely, twelvepence yearly for every fifty acres,⁴⁴ or four pounds of tobacco, or a peck of wheat. Those that held land granted by Claiborne for a rent of two capons might have that rent commuted to sixteen pounds of tobacco or a bushel of wheat.⁴⁵ This makes each capon worth two shillings, which Bozman points out was near the Shakespearean price of two and six.⁴⁶

A commission of May 8, 1641, authorized Brent to hear and decide all cases in Kent Island in which Braintwhait, the commander, was interested,⁴⁷ and, on July 10, fearing trouble with the Ozinies⁴⁸ or some other neighboring Indians, all persons in the Province were forbidden⁴⁹ by Calvert to harbor, or entertain, any Indian, under penalty of punishment by martial law, and the Kent Islanders were

⁴³ 4 Md. Arch., Prov. Ct., 138.

⁴⁴ The 1636 Conditions of Plantation provided for a payment of ten pounds of wheat for fifty acres; 3 Md. Arch., Coun., 47.

⁴⁵ Tobacco thus is worth 3 d. per pound; 3 Md. Arch., Coun., 95.

⁴⁶ He also points out that the value of wheat in England by the Statute of 21 Jac. 1, ch. 28, sect. 3 (1624), was the same as is here given in Md. 2 Bozman, 181.

⁴⁷ 3 Md. Arch., Coun., 97.

⁴⁸ 2 Bozman, 183.

⁴⁹ 3 Md. Arch., Coun., 98.

authorized to "shoot, wound, or kill any Indian coming" upon the island. Calvert had just returned from Virginia⁵⁰ when he issued this proclamation, having left Cornwallis early in May in possession of all the powers of governor except those of remitting and pardoning offenses.

THE ASSEMBLY OF 1641.

The Assembly had been prorogued in October⁵¹ to January, 1640-1, but on December 7 the Governor extended the prorogation, and the second session of the fourth Assembly finally came together at St. Mary's⁵² on August 2, 1641. Thomas Gerard of St. Clement's Manor was summoned personally, but was also chosen as a burgess of the hundred^{52a} and took the place of Robert Vaughan, who had been formerly chosen as his attorney. Vaughan appeared on August 5 and was refused his demand "to have voice in his own person." The Kentishmen thought they had paid too much for their representation in the first session and now sent only Giles Brent and Adams; St. George's hundred sent only one burgess,⁵³ and Conception asked Mr. Fenwick to "answer for us at the Parliament."⁵⁴ Fulke Brent came, however, and the House numbered eleven men. Calvert was anxious to have passed two bills for the "confirmation of his Lordship's patent" and for an expedition against the Indians, but could find no support except Lewger for the former and Lewger and Fulke Brent for the latter. The Assembly declared that, in causes in which the Lieutenant General was plaintiff, he might grant writ just as when another was plaintiff, to warn the defendant to do right, or else "have him before the judge."⁵⁵ Two bills were passed

⁵⁰ 3 Md. Arch., Coun., 98.

⁵¹ 1 Md. Arch., Ass., 103.

⁵² A description of St. Mary's and St. Inigoes by Edward C. Bruce will be found in 8 Lippincott's Magazine, 36.

^{52a} Five names are signed to the return. 1 Md. Arch., Ass., 105.

⁵³ Sixteen men signed return that they wished Geo. Pye alone as their representative. 1 Md. Arch., Ass., 104.

⁵⁴ Three men signed the request. 1 Md. Arch., Ass., 106.

⁵⁵ 1 Md. Arch., Ass., 106.

which were apparently introduced by the Governor:⁵⁶ one, an act inflicting the penalty of death and forfeiture of goods, or of seven years' servitude, on fugitive apprentices;⁵⁷ and a second fixing the Winchester bushel as the standard measure of the Province.⁵⁸ A third bill, introduced by Giles Brent and opposed by Lewger and Greene, was passed, "touching probate of wills and administrations," and the Assembly was prorogued. The probate act⁵⁹ revoked former laws by which the county court had this jurisdiction, and provided that the Lieutenant General or his deputy should prove wills and exercise testamentary jurisdiction according to the laws of England, and where they were "doubtful, then according to equity and good conscience." Lewger had previously exercised the ministerial duties of the probate court, and probably continued to do so as the Governor's deputy. The control of testamentary causes by a lay tribunal instead of by an ecclesiastical one is one of the many proofs of Baltimore's freedom from clerical influence.

The prorogation was until January, but in October Calvert summoned the Assembly to meet immediately. Before it met, however, he went to Virginia and, by successive prorogations issued by Lewger, the meeting was postponed until March.⁶⁰

⁵⁶ 1 Md. Arch., Ass., 107.

⁵⁷ Receiving runaway servants was declared no felony.

⁵⁸ The barrel should contain five bushels. 2 Bozman, 187, calls attention to the almost exactly contemporaneous passage of the English standard act, 16 Car. 1, ch. 19. The law was to continue for two years.

⁵⁹ 2 Bozman, 188. The administrator was to have ten per cent. of the estate and his charges. The Lieutenant General was to administer estates where no person claimed the right, and in that case the Council were the judges, and if necessary he might name new Councilors for that purpose. The act should continue for two years.

⁶⁰ 1 Md. Arch., Ass., 113. 5 Thurloe's State Papers, 482, cited in 1 Scharf's Md., 165. Objections to Lord Baltimore's patent, among them, that laws are made by the Proprietary and a Privy Council composed mostly of Papists. In May, 1641, Baltimore's friend the Earl of Strafford was beheaded.

THE CONDITIONS OF PLANTATION OF 1641.

On May 6, 1641, the Governor and Council⁶¹ made an assessment for public charges, which Calvert in October ordered the sheriffs to collect. The levy is said to be "according to the act of General Assembly in that behalf made and provided," but I have found no such act. About this time Baltimore sent over new Conditions of Plantation⁶² to go into effect March 25, 1642. The benefits of these offers⁶³ are limited to persons of British or Irish descent, and the persons brought in must be of the same nationalities. To receive a grant of a manor, now limited in size to two thousand acres, twenty able persons, either men between the ages of sixteen and fifty, furnished with arms and ammunition according to an itemized list, or women between the ages of fourteen and forty, must be brought into the Province in one year. For the manor there must be paid a quit rent of forty shillings sterling yearly "in the commodities of the country." In case smaller numbers of persons be transported, fifty acres in some manor are given for each person, on a like quit rent of twelvepence yearly, and, for each person brought in under age, twenty-five acres are granted on payment of sixpence yearly. All such grants must be claimed within a year of the time they are due. It will be seen that Baltimore retained his aristocratic plans for his colony. In connection with these Conditions of Plantation⁶⁴ we gain a very interesting light on the struggle between the Proprietary and the Jesuits. He was so dissatisfied with their conduct in the Province that he petitioned the Congregation for the Propagation of the Faith "to grant a perfect and secular priests authority to take charge of the

⁶¹ 3 Md. Arch., Coun., 99. October 8, Wm. Hawkins was licensed "during pleasure" to keep "an ordinary victualling house at or near St. Mary's."

⁶² Dated Nov. 10, 1641. 3 Md. Arch., Coun., 99. Johnson, 65.

⁶³ Kilty, Land-Holder's Assistant, pp. 68, 70, 78, gives records of servants brought in, and of the patents for land given in return therefor.

⁶⁴ Johnson, p. 64, Foundation of Md; E. D. Neill, Light thrown by the Jesuits upon hitherto obscure points of early Md. hist., 5 Pa. Mag., 51.

Maryland Mission." This petition was granted in August, 1641. Baltimore was allowed to remove the Jesuits, and the authority to take charge in Maryland was issued to Dom Rossetti, Archbishop of Tarsus. Had this plan not been reconsidered Maryland might have seen a Roman Catholic bishop a century and a half before John Carroll. While preparing for the ecclesiastical changes, Baltimore issued these Conditions of Plantation, and to the provision spread at large on the Maryland Archives the Jesuit records at Stonyhurst add two more, which carried into operation in Maryland the provisions of the English Statutes of Mortmain.⁶⁵ These omitted sections⁶⁶ decree that "no corporation, society, fraternity, municipality, political body (whether it be ecclesiastical or temporal)" may possess lands in their own right, or that of others, without "special license first had" from the Proprietary. All grants made to such bodies without license "shall be, by the very fact, void," and no person shall grant lands to such bodies, or for any use prohibited in any English Statute of Mortmain, without similar license. With these omitted provisions there is an oath to be administered to all who receive lands before the granting of patents, in which oath, after acknowledging Baltimore to be "true and absolute Lord and Proprietary," the recipient of land swears that he will not possess any lands by virtue of any grant from the Indians, or any other person not legitimately deriving a title from a Proprietary grant, nor will delay to inform Baltimore, or his governor, in case he knows "that any other person acts contrary to this."

THE JESUITS AND THE LAND.

After the receipt of these Conditions of Plantation Calvert and Lewger called on the "religious men" in order to treat of these difficulties.⁶⁷ The Governor, in speaking of

⁶⁵ Of mortmain, see Johnson, 181.

⁶⁶ Johnson, 67. Why were not these later provisions entered on the Council minutes?

⁶⁷ Johnson, 69.

the publication of the Conditions, said that he interpreted them to mean that the grants already made were not included, but that the articles only meant that no one should be allowed to profit by these Conditions unless he would submit all his property, both that already granted and that hereafter to be granted, to the condition of non-alienation. Calvert was worried lest he be excommunicated by virtue of the bull, *Coena domini*, if he promulgated the Conditions, but the fathers said that, with this interpretation, he would not incur the penalty, as the Conditions were no new edict but "a mere proposition left to each one's choice." He was also worried lest, even though he did not incur excommunication, he should be guilty of mortal sin in promulgating his brother's Conditions, and the religious men thought it would be a mortal sin, but would examine the matter more maturely. They felt that, at any rate, the oath could not be taken with a safe conscience, but would cause both giver and taker to be excommunicated, and that, if the Conditions meant that no ecclesiastical society could take advantage of them, then to promulgate them would bring excommunication on the Governor's head. The bull above referred to asserted for the Pope full supremacy over all powers and persons, temporal and ecclesiastical, forbade any one to violate the ecclesiastical liberties or rights of the Church of Rome, and declared that ecclesiastical persons should not be subject to secular tribunals. The binding force of this bull, however, was denied by the Parliament of Paris and by many English Roman Catholics.⁶⁸

Lewger next propounded questions on propositions of Canon Law:⁶⁹ (1) Can a Roman Catholic layman hold office in a region where the Church cannot preserve all its laws; (2) are the clergy's privileges due by divine law or from the gift of princes and states, and can the temporal authority oppose the clergy's privileges without sacrilege, if they have

⁶⁸ Streeter, Md., *Two Hundred Years Ago* (1852), p. 32.

⁶⁹ Johnson, 71. Father More in a letter to the Congregation for the Propagation of the Faith spoke of Lewger as having retained yet much of the leaven of heresy. Johnson, p. 80.

not been conferred by princes; (3) is the erection of ecclesiastical tribunals, "with power of external compulsory jurisdiction," to be by virtue of Baltimore's own authority or by special commission from the Pope; (4) can Roman Catholics who are in the Provincial Legislature give consent to laws about testamentary causes, especially if the laws declare that the goods of the deceased "go to the public use of the temporal State and not to pious purposes, as is done in Catholic countries;" (5) can such Roman Catholics consent to a law prohibiting the bequeathing, or otherwise aliening, of land to spiritual persons without leave of the Prince; (6) can such Roman Catholics consent to laws of matrimonial causes, such as were passed by the Assembly of 1640; (7) can such Roman Catholics consent to a law which prohibits a woman from being heir to lands and from holding them, unless she marry within a limited time; (8) can a secular Roman Catholic judge in Maryland examine and punish clergy, so far as the loss of life and limb, without excommunication; and (9) can Roman Catholic legislators consent to laws imposing taxes "for sustaining the Prince or defending the Province, on ecclesiastical persons and church lands;" are such persons and lands included in such laws when they are not in the law excepted, and can a secular Roman Catholic judge issue process imposing such taxes on such persons or goods, without an express license from the Pope? Father White⁷⁰ wrote a full account of this interview to the Provincial of England, Henry More, a descendant of Sir Thomas More, and expanded Lewger's nine queries into twenty. The country is "newly planted" and depends "wholly upon England for its subsistence," there is "no ecclesiastical discipline established" nor can there be while England is a heretic nation, no Provincial Synod has

⁷⁰ Johnson, 73. The nine questions of Lewger are modified in White's draft and correspond as follows: 1-1, 2-3, 3-4, 4-8, 5-9, 6-11, 7-13, 8-18, 9-19. On the struggle with the Jesuits see also Thomas, *Chronicles of Colonial Md.*, p. 87. Shea, *Colonial Church*, p. 61, quotes a letter of Peaseley and his wife in September and October, 1642, to the Jesuits, stating, "I have prevailed for the present employment of two of yours."

been held nor spiritual courts erected, nor have the Canon Laws been accepted nor clergymen admitted as such, nor is the Catholic religion publicly allowed. The situation is a perplexing one and "three parts of the people or four (at least) are heretics." Father White's additional queries deal with these points: (2) Must lay Roman Catholics in Maryland accept the Canon Law before it be accepted by some local law; (5) do testamentary causes belong to the spiritual court of the "Church's proper right," or did princes of their voluntary election sever their causes from the Crown either because of a connection between the causes and Christian doctrine, or from a presumption that the church would faithfully discharge the trust; (6) may lay judges act in testamentary matters by commission from the Proprietary, or must they obtain delegation from the Pope, on pain of excommunication; (7) may a Roman Catholic in Maryland refuse to prove a will because it contains a statement by the testator that he is a faithful member of that Church, or because it gives legacies for masses to be said for the soul of the deceased, or is he bound to prove it, though the Lord Proprietor may incur danger for such a record; (10) must a Roman Catholic executor follow the order of marshaling assets prescribed by the English law or that of the Canon Law, by which the debts due to spiritual persons were paid before those due laymen; (12) may Roman Catholic legislators consent to a law prohibiting the marriage of apprentices without the master's consent; (14) does land granted by the Lord Proprietor to religious persons, by that very fact, become exempt from lay burdens; (15) if one trespass on the lands of the clergy may they put in force the censures of the Bull Coena without or before proceeding against the trespasser in some court, spiritual or temporal; (16) may ecclesiastical persons be summoned into the Assembly and into court, and may a Roman Catholic secular judge give sentence and issue execution against them without excommunication; (20) may the General Assembly make laws to dispose of the clergymen's interests when they are neither pres-

ent nor represented by proxy (though they were summoned), nor hold Provincial Synods where they might give their consent to the laws?⁷¹

MINOR MATTERS IN THE WINTER OF 1641-1642.

In January, 1641-2, Brent was appointed judge of all causes in Kent,⁷² and Boteler was authorized to sit in cases in which Brent was interested. In March John Langford was appointed surveyor general for his natural life,⁷³ so that the new grants of land might properly be laid out.

In addition to a marriage bond and a testamentary matter,⁷⁴ the court records reveal the troubles that planters, varying in importance from Mrs. Brent and Lewger to some very plain people, had with three Irishmen, who owed the complainants money but "feloniously ran out of the Province, with intent never to return again." Judgment was given against the Irishmen⁷⁵ and their estates in Maryland were divided, so that each plaintiff received a little more than a third of his debt.

THE ASSEMBLY OF MARCH, 1641-1642.

As many of the laws had been passed for a two years' period, which would soon expire, Calvert now determined to call a new Assembly.⁷⁶ At first he sent out writs of election similar to those of the fourth Assembly, but for some reason changed his mind, and on March 2, 1641-2, summoned all freemen to appear in person, or by proxy, at St. Mary's on March 21. On that day came together forty-one men; all of the seven Councilors were included but Gerard.

⁷¹ Shea, *Colonial Church*, p. 68, suggests that Baltimore again applied for secular clergy in 1645.

⁷² 3 Md. Arch., Coun., 101.

⁷³ The term for life is a unique one in Maryland.

⁷⁴ John Ormsby and Frances Griffin. 4 Md. Arch., Prov. Ct., 67. Christopher Martin, *op. cit.*, 66, 92.

⁷⁵ 4 Md. Arch., Prov. Ct., 67.

⁷⁶ The proclamation was not sent to Kent until Mch. 13. 1 Md. Arch., Ass., 114-116. He had personally summoned the Councilors: the Brents, Cornwallis, Lewger, Greene, Jno. Langford and Thos. Gerard.

Two men came from Kent, one from an unknown part of St. Mary's County, five from St. Mary's hundred, twelve from St. George's, eight from St. Michael's, one from St. Clement's, and six from Mattapanient.⁷⁷ Twenty more from the Western Shore were represented by proxies held by five men, and seven of those present appointed proxies and left.⁷⁸ On the second day three more came from St. Clement's, one from St. Michael's, two from St. George's, and one from Kent, while on the third and last day four more from Kent, two from Mattapanient, one from St. Michael's, and one whose residence is unknown were added.

The Long Parliament was in session, the civil war which was to destroy the English monarchy for a time had begun. In May, 1641, the English statute declared that the King should no more prorogue nor dissolve Parliament, and an echo of this act was heard in the Maryland Assembly when, after calling the roll and reading the "bill for the support of the Government, with general consent" the House voted that it might not be adjourned or prorogued but by and with its consent.⁷⁹ As a result, the House "adjourned itself" daily, and the Governor "dissolved" it after another assembly was appointed to begin⁸⁰ on June 1. Lord Baltimore, though a Roman Catholic, took a studiously neutral position throughout the whole struggle in England, and his brother in Maryland preferred to bend rather than break. The suspicion felt toward the executive of the Province was also shown by the Assembly's refusing to entrust an expedition against the Indians to the discretion of the Governor and Council.⁸¹ Two other acts failed, one for the planting of

⁷⁷ Three came late.

⁷⁸ On no day does the attendance seem to have exceeded forty. The clerk was allowed fifty pounds of tobacco per diem during the session and two days before it began and two days after it ended. 1 Md. Arch., Ass., 122.

⁷⁹ 2 Bozman, 195, calls attention to the fact that the Governor in the earliest assemblies seems to have adjourned the houses from day to day.

⁸⁰ 1 Md. Arch., Ass., 121. The Assembly did not actually meet until July. The act of 1642, ch. 4, provided that the next Assembly should begin on Nov. 12, unless sooner called.

⁸¹ 1 Md. Arch., Ass., 118.

plenty of corn and one "to prohibit the exportation of deer skins, to the end that they might be dressed in the country." This protection to an infant industry was postponed because "the leather dresser could not undertake to take of all the deer skins in the country till he had provision of tallow, etc., out of England."⁸² Three bills were passed. The first⁸³ continued in force till the next Assembly certain portions of the act of 1639, and ratified any judicial proceedings had since the session of 1640 which violated no law of the Province. The second act, granting a subsidy to the Proprietary,⁸⁴ was passed unanimously and signed by Cornwallis and Giles Brent in behalf of the freemen before Calvert "enacted" it in "his Lordship's name."⁸⁵ This act shows a warm feeling of gratitude to Baltimore,⁸⁶ who is said to have spent £40,000 on the Province in the first two years of its settlement. Chalmers wrote: "This donation does equal honor to both" Proprietor and freemen "because it shows that one had merit and that the others were grateful." The preamble states that the freemen "desire to return his Lordship some testimony of their gratitude" for his "great charge and solicitude in maintaining the government and protecting the inhabitants in their persons, rights, and liberties, and to contribute, so far as the young and poor estate of the Province will yet bear." They therefore enact that fifteen pounds per poll be contributed before November 10 for every inhabitant, freeman or servant, above the age of twelve years.⁸⁷ The last act was a mere repetition of the act against fugitives of the preceding session.⁸⁸

⁸² 1 Md. Arch., Ass., 121.

⁸³ 1 Md. Arch., Ass., 122, viz: concerning the rights of the Lord Proprietary, and the people's liberties, the power of judicature, the captain of militia, officers' fees, the settling of the house of Assembly (2 Bozman, 203, calls attention to the fact that this provided for a representative body and not a mass meeting), the payment of debts and the custom duty on tobacco.

⁸⁴ 1 Md. Arch., Ass., 123.

⁸⁵ 1 Md. Arch., Ass., 118, 120.

⁸⁶ Chalmers' Annals, 208.

⁸⁷ Masters must pay for servants, and distraint is provided for any one's failure to pay the subsidy.

⁸⁸ 1 Md. Arch., Ass., 124. A committee of six (two from Kent) was appointed to assess charges of the session.

In addition to its legislative business this Assembly had several matters of a judicial nature before it. John Medley petitioned that John Hallows deliver him some cattle, which delivery was ordered by the House after a committee reported favorably upon the petition.⁸⁹ Other petitioners did not fare so well. Ingle was told that Giles Brent should not be held liable for a direction to the sheriff for serving an execution.⁹⁰ John Wheatly was answered⁹¹ that he had not proved that Cornwallis had refused to provide him and his wife with the necessities which he was bound to give, Robert Nicholls and John Hampton were left to the ordinary course of law,⁹² Thomas Morris was told that the conduct of Richard Thompson toward him would be "champerty by the law of England, but not such as is criminal here."⁹³ A more important petition than any of these was one presented by David Wickliff, in the name of the Protestants,⁹⁴ complaining that Mr. Thomas Gerard had taken away the key of the chapel and had carried off the books^{94a} from it. The Assembly heard both sides and decided that Gerard was guilty of a misdemeanor, and that he should bring back the key and the books and relinquish all title to them or to the house, and should pay as fine five hundred pounds of tobacco toward maintaining the first minister that should arrive. These proceedings seem to show three things,—the scrupulous care of the authorities to preserve freedom of worship, the early erection of a Protestant meeting-house in St. Mary's County, and the fact that there was as yet no Protestant clergyman or minister on the Western Shore.

⁸⁹ 1 Md. Arch., Ass., 118, 119.

⁹⁰ 1 Md. Arch., Ass., 120. The Governor announced the date of coming court days.

⁹¹ 1 Md. Arch., Ass., 121.

⁹² Which they do not seem to have taken.

⁹³ This is an early instance of the selection of what English statutes shall be held in force in the Province.

⁹⁴ In one place the record calls the petitioners "Protestant Catholics," probably a careless pleonasm of the clerk. 1 Md. Arch., Ass., 119.

^{94a} 2 Bozman, 200, guesses that the books were prayer-books; they may have been Bibles.

EVENTS IN THE SPRING OF 1642.

During these years the English Civil Wars had begun, the Long Parliament was in session and was throwing down one after another of the institutions of the monarchy. Though Maryland was soon to become involved in the troubles of England, we have heard not a rumor of trouble in the Province as yet. Baltimore, whose wife, the Lady Anne Arundel, was of a strong Royalist family, seems to have held himself neutral throughout the whole combat. In carrying out this principle of neutrality he was thought to desire to leave England for Maryland in March, 1642; a writ of *ne exeat regno* was asked against him, and he is said to have given bond not to leave the kingdom without the Lords' permission.⁹⁵ In the spring of 1642 Thomas Adams and Capt. John Boteler,⁹⁶ two of the most prominent citizens of Kent Island, died. On August 2 Brent succeeded Brainthwait as commander of Kent, and William Ludington and Richard Thompson were appointed as his commissioners, with "all the powers of the Commissioners of a County."⁹⁷ Troubles with the Indians occurred again this summer. Robert Evelin was made captain of the English in Piscataway⁹⁸ on June 25, and on the same day William Blount received like commission in St. Mary's County. Orders were proclaimed that no man shall entertain any

⁹⁵ 2 Bozman, 192. 3 Md. Arch., Coun., 102. An attempt to restore the Va. Company was unsuccessful this year. 2 Bozman, 211. Neill, Terra Mariae, 106.

⁹⁶ 4 Md. Arch., Prov. Ct., 68, 69, 99, 128. That same spring and summer these estates came before the Court: (1) Henry Wood, op. cit., 69, 96; (2) Wm. Westly of Kent, op. cit., 70 (nuncupative will, Baldwin Calendar); (3) Richard Lusthead, 71, 94, 95; (4) Thos. Charinton, 71, 95; (5) John Machin, 71, 95, 154; (6) John Cockshot, 72, 96, 145, 147; (7) Leonard Leonardson, 94.

⁹⁷ 3 Md. Arch., Coun., 104; Robert Vaughan was added to the commission on Dec. 16, op. cit., 124.

⁹⁸ 3 Md. Arch., Coun., 103. The commissions are given in full and differ in their detail. This step is the initial one for the establishment of a second county on the Western Shore. Wm. McFenin was made sergeant for St. George's hundred. 3 Md. Arch., Coun., 104. On Oct. 17 he was made sergeant for the several hundreds of the county (op. cit., 118). I regret to find that he was sued for debt, as a notorious fugitive, in December. 4 Md. Arch., Prov. Ct., 163.

Indian, nor permit him to have a gun or ammunition. Householders must provide gun, powder and shot for each man able to bear arms. No man may discharge three guns in a quarter of an hour except to give alarm. When such alarm is heard every housekeeper is to continue it as far as he may. No man able to bear arms may go to church, or chapel, or any considerable distance from home unarmed. A messenger was sent to the great men of the Patuxents and of the nations joined to them to bring before the Governor the Indians who had done Simon Demibiell or Henry Bishop "injury in their swine."⁹⁹ While matters were in this excited state the Assembly met.

THE ASSEMBLY OF 1642.

On April 4, 1642, Calvert called a new Assembly, the sixth, to meet on June 1, consisting of one or two burgesses for each hundred.¹⁰⁰ For some reason he postponed it and, by proclamation dated July 1, called it for Monday the eighteenth of the month. The elections took place in St. Mary's on the Saturday before, and personal writs were issued to Cornwallis, Giles Brent, William Blount, John Langford, Thomas Gerard, Robert Evelin, Cuthbert Fenwick, Robert Clerk, and William Bretton, all of whom but Brent, who had given Cornwallis his proxy, appeared on the first day of the session. We learn that members from the hundreds need not live in the one they represented, since David Wickliff, planter, of St. Mary's, ¹⁰¹ sat for St. George's with George Pye. The other burgesses were Thomas Greene, gentleman, and Nathaniel Pope, planter, of St. Mary's; Thomas Sterman, cooper, and John Langford, carpenter, of St. Michael's; William Brough, of St.

⁹⁹ 3 Md. Arch., Coun., 104. Vide Calvert's letter from Baltimore.

¹⁰⁰ Cyprian Thorowgood, sheriff of St. Mary's County, summons all the freemen save on St. Clement's Manor, where Gerard summons them; Giles Brent summons the Kent Islanders. 1 Md. Arch., Ass., 127-129.

¹⁰¹ He was taxed in St. George's. 1 Md. Arch., Ass., 128, 144.

Clement's, and Henry Bishop,¹⁰² from Conception. Richard Thompson and Robert Vaughan, who appeared for Kent County (a new term for the Island) with proxies, were refused admission until they showed Brent's letter that they were also chosen as burgesses. The Assembly continued in session¹⁰³ until August 1. On the next day the committee of six, appointed to assess the charge of the session upon the hundreds, met and heard the demands of the burgesses. Apparently those personally summoned received no pay.¹⁰⁴ An allowance of forty pounds of tobacco daily for thirteen days was made to each burgess, save to those from Kent, who were allowed for twenty days, probably to cover their travel, and to Henry Bishop, who was allowed for fifteen days. The Kentishmen were also allowed for hire of a boat for three weeks and for wages and diet of a servant. The charges of the clerk and the drummer were apportioned among the hundreds, and the full list of taxables and the levy against each is given. From this we learn that there were twenty-nine men taxpayers in St. Mary's, thirty men taxpayers in St. George's, twenty men taxpayers in St. Clement's,¹⁰⁵ forty-five in St. Michael's, fourteen in Mattapanient and seventy-one in Kent County.

This was an important session. On the first day Robert Vaughan, speaking for the burgesses, asked that they might sit "by themselves and have a negative," but Leonard Calvert refused this.¹⁰⁶ On the next day a compromise was made, repealing the previous law as to the quorum of the

¹⁰² He first claimed admission from St. Leonard's hundred, alleging it was recognized on the probate of a will, but he was told no writ was issued to it and it was not yet created a hundred. 1 Md. Arch., Ass., 130.

¹⁰³ Except on Sundays and on Monday, July 25.

¹⁰⁴ 1 Md. Arch., Ass., 142-146. Lewger was chairman; all the other members were burgesses. The treasurer was ordered, "on motion of the freemen," to bring in his accounts at the October court. On Lewger and Cornwallis's plantations at St. Mary's and the famous old mulberry tree there, see Thomas' *Chronicles of Col. Md.*, 24 and 55.

¹⁰⁵ Gerard is not taxed nor is any one personally summoned.

¹⁰⁶ 1 Md. Arch., Ass., 130.

Assembly¹⁰⁷ and fixing it for this and the next Assembly at ten, including the Lieutenant General and at least six burgesses,¹⁰⁸ unless sickness prevented so many from coming together, in which case the members present should "make the house." When this was read as a rule of the House Lewger said it was contrary to a previous law and should be considered as a bill, which was done.¹⁰⁹ On August 1 a bill was passed, against the votes of eight out of ten of the burgesses. Greene protested that the major part of the burgesses must vote aye to carry the bill, but his point was overruled in reference to this bill, and it was held that the major part of both those personally summoned and of the burgesses carried a measure.¹¹⁰

There was quite a little friction between Calvert and the burgesses. On the day when they found they could not sit separately they expressed a "great opposition"¹¹¹ to a march against the Indians. Calvert told them plainly, "I do not intend to advise with you, whether there should be a march or not, for that judgment belongs solely to me, as appeared by the clause of the patent touching the power of war and peace, but to see what assistance you will contribute, in case I should think fit to go."¹¹² Lewger moved that a bill be drawn for the levying of twenty pounds of tobacco per head toward the charge of the expedition. "First," answered the burgesses, "let us have the patent to peruse and respite till morning." Their caucus must have decided against the expedition, for we hear no more of it, and another step was taken toward shearing Baltimore of some of the privileges conferred by his charter.

¹⁰⁷ Laws of 1638, ch. 1 and 2. 1 Md. Arch., Ass., 81-82.

¹⁰⁸ 1 Md. Arch., Ass., 131, 132, 146; 2 Bozman, 216, calls attention to the fact that of the twenty-one members the burgesses numbered ten, so a measure could be carried with all of them against it.

¹⁰⁹ 1 Md. Arch., Ass., 141.

¹¹⁰ Cornwallis had a proxy for Giles Brent at the beginning, and on July 22 showed one for Fenwick. Lewger was made proxy for Gerard on the twentieth.

¹¹¹ 1 Md. Arch., Ass., 130.

¹¹² Charter secs. 12 and 13 bear out Calvert's contention.

At sunrise the drum beat and at each half hour thereafter. At the third drum-beat the House met¹¹³ and absentees were fined, unless excused by the Governor for absence at this early hour. No bill might be read more than once a day, nor could a member speak more than once a day to any bill without the Governor's consent. At 3 p. m. daily a committee, composed of Cornwallis as chairman, Lewger, Evelin, and four burgesses,¹¹⁴ sat to consider all bills and petitions. There seem to have been few petitions.¹¹⁵ After three days the committee was discharged, and the bills and petitions seem to have been considered in full house.¹¹⁶

At this session Calvert first exercised the veto power, and a reflection of the English phrase, "*le roi s'avisera*," is found in his statement, when the House would not agree to amendments he desired, that he will take "time of advising" concerning the act for "right of the Lord Proprietary¹¹⁷ and liberty of the people," and concerning the acts¹¹⁸ "for taking of boats," for "delivering arms to Indians," and "touching the house of Assembly." Several other bills failed to pass the House, but it managed to put on the statute books thirty acts, besides revising the table of fees for secretary of the Province, clerks of county courts, surveyor general, and sheriff (who also acted as coroner).¹¹⁹

The Assembly¹²⁰ renewed the five per cent. duty on

¹¹³ 1 Md. Arch., Ass., 131. No one should use "indecent, taunting, or reviling words to the naming or personating of any member, or misbehave himself in speech," on pain of censure.

¹¹⁴ Six were named, of whom four could sit at any time. 1 Md. Arch., Ass., 132.

¹¹⁵ George Binks asked unsuccessfully for a public salary "to the finding of a chest," Henry Bishop asked a remedy against the Indians of Patuxent for killing his swine, and was told to prove his case first, and three other petitions of unknown import were answered. 1 Md. Arch., Ass., 134, 136, 141.

¹¹⁶ 1 Md. Arch., Ass., 133, 136. Calvert, on July 20, had given the committee power to summon persons, administer an oath and imprison for contempt.

¹¹⁷ Cornwallis, as Brent's proxy, cast the only vote against this bill. 1 Md. Arch., Ass., 136.

¹¹⁸ 1 Md. Arch., Ass., 139, 140.

¹¹⁹ 1 Md. Arch., Ass., 162. All fees were paid in pounds of tobacco.

¹²⁰ 1 Md. Arch., Ass., 146, 182. 2 Bozman, 245, suggests that the Dutch trade may have brought in revenue therefrom.

tobacco till the end of the next Assembly, to which period nearly all its laws were limited. The judicial system was organized by several acts. Judges shall be appointed by the Governor, cases "not limited by any certain law of the Province" shall be decided by the Governor and Council in the Provincial court, now first clearly differentiated from the county court, or by the Governor or Commander and Commissioners of the county courts.¹²¹ If the judges vote equally, the judgment of the chief is to prevail. An oath must be taken by a judge, before he assumes office, to "administer equal justice to all persons, according to the laws of their Province." No mention is made of those of England. If the chief judge is absent, or interested in the case, the next in commission shall take his place. The Governor may sit, though interested in the decision. In civil cases "right and just" must be "determined, according to the law, or most general usage of the Province, or former precedents of the same or the like nature."¹²² In default of those, "right and just shall be determined according to equity and good conscience, not neglecting (so far as the judge or judges shall be informed thereof and shall find no inconvenience in the application to this Province) the rules by which right and just useth and ought to be determined in England in the same or the like cases." Thus early did the colonists claim the right

¹²¹ 1 Md. Arch., Ass., 147, 183. When the law was reenacted in September the Governor is dropped from the list of those who sit in the county court, and it is clearly stated that the latter tribunal must not exceed their commission and that there is an appeal therefrom to the Provincial court. It is then further provided that the Governor, any Councilor, or Commander of Kent may correct offenses which a justice of the peace may determine in England, and that the judges sitting must not be interested in the decision of the case. If the other judges are absent from the county, the chief judge may sit alone. The Governor is not suable for his official acts, and no execution may be accorded against him nor against "his necessary menial servants" in such cases, while strict limits are placed to process against his goods and chattels.

¹²² 1 Md. Arch., Ass., 147, 184. In September there was added a prohibition to outlaw or exile, or to fine any one above one thousand pounds of tobacco, without Provincial statute, or to punish corporally a gentleman.

to determine what laws of the mother country were applicable to and should be used in Maryland.

Crimes were to be punished according to Provincial statute, and when there was none such and the offense did not involve a punishment depriving the offender of life, member, or freehold, the court should determine "according to the best discretion of the judge or judges, judging as near as conveniently may be to the laudable law or usage of England."¹²³ Appeals were allowed, on giving security to the trial court to prosecute the same and abide the decision above. If the higher court found no cause of appeal, they might give treble damages¹²⁴ to the "party grieved." The order of hearing and determining causes was fixed,¹²⁵ and the dates of court days were established, to St. Mary's being given six such days, and to any other county eight.¹²⁶ Provision was made to prevent justice from being defeated when the defendant failed to appear, was not in the Province, or had fled from it.¹²⁷ The forms of proceeding were to be fixed by the courts¹²⁸ "as near as conveniently they may, to the former precedents and usages of the court" and, in defect thereof, to the forms of England. The rules of evidence and the methods of summoning a jury¹²⁹ were determined. The effect of set-offs and the conditions under which the setting aside of a jury's verdict might be set also by the court¹³⁰ were provided for. A rule for the execution of civil judgments was established, tobacco and necessary clothing, bedding, utensils, and tools being exempted.¹³¹ If a debtor could not pay and had lived at any time before in the quality of a servant, laborer, or artificer, he might be

¹²³ 1 Md. Arch., Ass., 148, 184.

¹²⁴ Changed to double in September.

¹²⁵ 1 Md. Arch., Ass., 149; not reenacted in September.

¹²⁶ 1 Md. Arch., Ass., 149, 184.

¹²⁷ 1 Md. Arch., Ass., 150, 185.

¹²⁸ 1 Md. Arch., Ass., 150, 185. In September the chief judge is given the power.

¹²⁹ 1 Md. Arch., Ass., 151, 186.

¹³⁰ 1 Md. Arch., Ass., 151, 187.

¹³¹ 1 Md. Arch., Ass., 152, 187. In September tobacco and utensils are no longer exempt.

bound out to some corporal labor to work out his debt, but if he was not fit to be put to corporal labor the court might commit him to strict custody and the sheriff must keep him in the prison, when one should be built. A long list of minute provisions guided officers of the law in laying attachments and executions on tobacco and corn.¹⁸² The testamentary law was stated, with careful provision for wills and intestate estates. If the judge in testamentary cases¹⁸³ was complained of, or was interested in any case, the judge of the Provincial court was to determine the controversy "according to the law or usage of the Province or former precedents." It is remarkable how little change has been made in the law respecting succession to property from that time to the present.

Assignments of contracts were regulated,¹⁸⁴ and then the lawmakers passed to the establishment of the first criminal code. Capital offenses included: (1) Treason according to the statute of Edward III, if the act was committed in Maryland; (2) wilful murder; (3) conspiring the death of or attempting violence against the Proprietary, or the Governor in his absence; (4) holding private intelligence with a declared enemy of the Province; (5) rising in arms or uniting against the Lord Proprietary. All these were to be punished by death, by forfeiture of property, and by corruption of blood.¹⁸⁵ "Less capital offenses," to be punished by death, by burning in the hand, by loss of member, by loss of lands for life and of goods, chattels, dignity, or office, by outlawry, by exile, by imprisonment or enforced service of the Lord Proprietary for a period not exceeding seven years (if the offender

¹⁸² 1 Md. Arch., Ass., 137, 153, 195. By the earlier act no growing crop could be attached. This defect was corrected in September.

¹⁸³ 1 Md. Arch., Ass., 138, 154, 188. Touching testamentary causes; 1 Md. Arch., Ass., 138, 157, 190. Touching succession to land; 1 Md. Arch., Ass., 138, 156, 191. Touching succession to goods of intestate persons.

¹⁸⁴ 1 Md. Arch., Ass., 138, 157, 191.

¹⁸⁵ 1 Md. Arch., Ass., 138, 158, 192. Corruption of blood was omitted from the penalty in September.

were not a gentleman), by corporal correction, or by putting to shame, were homicide, piracy, robbery, burglary, sacrilege, sodomy, sorcery, rape, polygamy,¹³⁶ larceny, wilful burning of another's house or stack of tobacco or hay, or plucking out another's eye or tongue. A third class of offenses,¹³⁷ punishable by loss of the right hand, by burning in the hand, by other corporal shame or correction (not extending to life) or by fine, included striking any officer, witness or juror in presence of the court, or striking any other person with a drawn weapon in that presence, striking a magistrate or high sheriff¹³⁸ in or for doing his official duty, counterfeiting, falsifying or embezzling records, giving false witness or procuring another to do so. Drunkenness¹³⁹ was punished with a fine of one hundred pounds of tobacco, which fines should be used toward building a prison or for such other public use as the Proprietary chose, or, if the offender were a servant and could not pay, he must sit in the stocks fasting for twenty-four hours. Profane swearing was punished by a fine of five pounds of tobacco.¹⁴⁰

Another act touching the taking up of land¹⁴¹ was passed, probably chiefly "to regulate the priority of warrants" for surveying land, while still other laws continued the requirement that every tobacco planter¹⁴² plant two acres of corn, prohibited the exportation of corn altogether from the middle of October until the middle of February, and allowed it at other times only with the Governor's license,¹⁴³ forbade engrossing and forestalling,¹⁴⁴ and decided in what way a debtor might make a lawful tender of tobacco.¹⁴⁵ The Assembly prohibited¹⁴⁶ any one from transporting from the Province any debtor, or person other-

¹³⁶ 1 Md. Arch., Ass., 138, 158, 192. Polygamy is omitted in September.

¹³⁷ 1 Md. Arch., Ass., 138, 158, 193.

¹³⁸ 1 Md. Arch., Ass., 138, 139. It was first proposed to have this read "officers."

¹³⁹ 1 Md. Arch., Ass., 159, 193. Seven burgesses wished the fine to go toward building a church; vide p. 139.

¹⁴⁰ 1 Md. Arch., Ass., 139, 159, 193.

wise obnoxious to justice, without a pass from the chief judge of the county, and strict regulations hedged about the granting of such passes. The sergeant of the train-band in every hundred was granted an allowance for "his art and pains in training" the militia.¹⁴⁷ Justices of the peace and commanders of the counties were to be appointed by the Governor from residents thereof, who are "freed from service." Yearly in March the county commissioners, who were the same as the justices of the peace, should nominate persons to be sheriff, from which nominations the chief judge might select a sheriff, but he might also select any one else not a Councilor.¹⁴⁸ Prior to this time the appointment had vested in the Governor and, as this act expired in the autumn, it never went into force.

THE INDIAN TROUBLES OF 1642.

Immediately after the adjournment of the July Assembly the court records begin again. On August 2, when James Neale sat as judge,¹⁴⁹ Lewger docketed ten suits for sums owed him and, about that time, had recorded a mortgage of a cow and steer and of two men's tobacco crops given him to secure payment of debts.¹⁵⁰ Two days later, when Lewger took the oath of judge before the Governor, Cornwallis docketed¹⁵¹ eight suits and had two crop mortgages and a deed of sale of four cows recorded. One of Calvert's debtors confessed judgment and another was sued by him, and Mrs. Brent docketed five or six suits.¹⁵²

¹⁴⁷ 1 Md. Arch., Ass., 140, 159, 194. 2 Bozman, 228. Kilty, Land-Holder's Assistant, 248.

¹⁴⁸ 1 Md. Arch., Ass., 140, 160. Not reenacted.

¹⁴⁹ 1 Md. Arch., Ass., 141, 161. Not reenacted.

¹⁵⁰ 1 Md. Arch., Ass., 141, 161. Not reenacted.

¹⁵¹ 1 Md. Arch., Ass., 141, 162. Not reenacted.

¹⁵² 1 Md. Arch., Ass., 140, 160, 194. The regulations were lessened in September.

¹⁵³ 1 Md. Arch., Ass., 140, 159, 193.

¹⁵⁴ 1 Md. Arch., Ass., 136, 148. Not reenacted.

¹⁵⁵ 4 Md. Arch., Prov. Ct., 113-115. He came from Spain and settled on the Wicomico River near St. Mary's. Neill, *Terra Mariæ*, 74.

¹⁵⁶ 4 Md. Arch., Prov. Ct., 116.

¹⁵⁷ 4 Md. Arch., Prov. Ct., 117-121.

¹⁵⁸ 4 Md. Arch., Prov. Ct., 118. I am uncertain as to the date of her suits against John Medley and Thomas Charinton.

On the fifth¹⁵³ Calvert sued a debtor, John Dandy entered eight suits, Cornwallis sixteen, and Lewger thirteen. Mrs. Mary Tranton or Troughton docketed two suits on the eighth, Cornwallis withdrew one of his and substituted another on the thirteenth,¹⁵⁴ on which day Lewger brought one suit. On the eighteenth Gerard instituted three suits¹⁵⁵ and Francis Posey one on the twenty-fourth. I have been thus minute because one is impressed by the large number of these suits, especially in the time of an Indian alarm, and by the fact that the greater part of them are brought by a very few persons and these for the most part the most prominent people in the Province.

The Indian alarm continued.¹⁵⁶ Cornwallis was directed on August 18 to "levy men and command them and use all power to the resistance and castigation of the enemies and vanquishing them," but, until actual danger, men might continue to tend their crops, repairing with women and children in case of an alarm to the forts and abiding there a month, unless sooner permitted to return home.¹⁵⁷ The Governor of Virginia was also appealed to for help, Col. Trafford being sent to him with a letter. Five of Virginia's citizens and eight of those of Maryland had been slain and their houses burnt and robbed, so both Governors should set forth "an expedition against the Indians, for the vindicating of the honor of our nation, and also to deter the like outrages for the future." Virginia was asked to furnish one hundred men to be present at the rendezvous of the forces at Kent Island on October 1, at which place Calvert planned to have as many more. Calvert would have attacked the Indians, who killed the Virginians, alone, had

¹⁵³ 4 Md. Arch., Prov. Ct., 121-124.

¹⁵⁴ 4 Md. Arch., Prov. Ct., 124.

¹⁵⁵ 4 Md. Arch., Prov. Ct., 125.

¹⁵⁶ 3 Md. Arch., Coun., 106.

¹⁵⁷ 3 Md. Arch., Coun., 107. St. Inigoes Fort, where the sheriff commanded with six men on guard day and night during the alarm; Thomas Sterman's house, St. Michael's hundred, where Lt. Thomas Baldridge commanded; Thomas Weston's house (St. George's hundred), where George Pye commanded; and Patuxent Fort, where Henry Bishop probably commanded, were the rendezvous.

he been able, as they were nearer him. Now also Marylanders had been killed, and the general safety required a joint expedition, like that forgotten previous one against the Nanticokes to punish them for the death of a citizen of Accomac.

In July the Virginia Assembly had stated among the "weighty consequences and benefits of its session" the treaties and overtures with the Governor and Province of Maryland, requiring time for maturing and very successful in the bay of Chesapeake, and the "settling of peace and friendship with the Indians."¹⁵⁸

THE GOVERNOR'S NEW COMMISSION.

In this difficult situation Calvert seized the arrival from his brother of a new commission¹⁵⁹ for him as Governor as an opportune time to reassemble the Legislature. This commission was sent undoubtedly to strengthen Calvert's position in the controversy with the Jesuits. He is not only to be Governor, but, because of his "faithful and laudable services," both "in the adventure of his person in the descent and settling of Maryland" and in "the ordering and advancing" of the Province, he is now to execute all the powers conferred on Baltimore by the charter as fully as if the latter himself were present. He is given a full power, which he did not have before, to assent to laws which shall then be in force, unless and until disassented to by the Proprietary. This seems to concede to the colonists the right of originating laws, and so differs from the commission of 1637 and follows the letter of August 21, 1638. The former commission authorized Calvert to "call, adjourn, and dissolve Assemblies." The power of prorogation is now expressly added. Power is also given Calvert to add to his Council such persons as Baltimore might appoint from time to time, and provision is made for the event of the Governor's death. With the Governor's commission came commissions

¹⁵⁸ Burk, *Hist. of Va.*, v. 2, p. 64. 2 Bozman, 230.

¹⁵⁹ 3 *Md. Arch., Coun.*, 108.

for a new Council,¹⁶⁰ to whose membership Col. Francis Trafford, William Blount, and John Langford, the surveyor, were added. A new commission for Lewger as Secretary was received. Both of these commissions were more minute than the former ones, and the judicial function of the Councilors was more accurately defined.¹⁶¹

THE ASSEMBLY OF SEPTEMBER, 1642.

This new commission of Leonard Calvert as Governor,¹⁶² which Baltimore signed on November 18, 1641, doubtless reached the Province in the summer of 1642, and though not promulgated until September 4, we can hardly doubt but that Calvert had received it when on August 22 he summoned all the "freemen inhabiting the Province" to come on September 5 in person to St. Mary's for an assembly or to send "delegates sufficiently authorized." The day after the reading of the new commission there assembled with Calvert, Cornwallis, Lewger and Langford of his Council and fourteen freemen. Two more freemen came in later.¹⁶³ It is interesting to notice that Cornwallis had only seven proxies and Lewger two, while Giles Brent held seventy-three proxies, all from men of Kent. Francis Posey held seven, and seven of the remaining fourteen freemen held from one to four, amounting in all to sixteen proxies. Seven more, including the other two Councilors,¹⁶⁴ were excused as being out of the country, eight were notified to appear and seventy-six were amerced twenty pounds of tobacco each for failure to come or send a proxy. This large number of proxies and absentees is perplexing, and it is important to note that this gathering was almost exactly the

¹⁶⁰ 3 Md. Arch., Coun., 114.

¹⁶¹ 3 Md. Arch., Coun., 116, 136. These commissions were dated Nov. 18, 1641. 2 Bozman, 234.

¹⁶² 3 Md. Arch., Ass., 114, 136. This summons was contrary to the law passed at the last session. Some damage was done to Francis Posey's house at St. Leonard's while he was away at the Assembly, and he asked St. Mary's County to reimburse him. 4 Md. Arch., Prov. Ct., 161, 162.

¹⁶³ Randolph Revell and Nathaniel Pope. 1 Md. Arch., Ass., 166.

¹⁶⁴ Trafford and Blount.

same in number as the last Assembly. When the roll had been called Thomas Weston, one of those present, pleaded¹⁶⁶ that he was no freeman, for he had no land in the Province, but the House voted that he need not be a freeholder to be a freeman, whereupon he remained in the Assembly. A new summons¹⁶⁶ was sent to the freemen of four of the hundreds of St. Mary's to appear, under penalty of fifty pounds of tobacco. Of the seven men returned as out of the Province, one appeared by proxy during the session, as did two of those suspended from amercement.¹⁶⁷ Of the seventy-six amerced, sixty sent proxies, as did seventeen more who are not mentioned in the first list. Some men changed their proxies, so that the list is confusing, but my figures show that twenty-three men were present during the session and that one hundred and seventy-seven persons appeared by proxy. After the roll of the House had been fixed on the first day, Lewger administered an oath of office to Calvert as Lieutenant General,¹⁶⁸ and rules of order were adopted similar to those of the last session.

The House then appointed a committee of seven to meet that afternoon and "draw up a bill touching a war to be made upon the Indians and other matters pertaining to the safety of the colony."¹⁶⁹ This shows that Calvert retired from his position of the last session. "Outrages" had been committed by the Susquehannocks and must be avenged. The committee reported on the same afternoon, showing that the bill had probably been already prepared, and when it was read Calvert demanded to be exempted from the levy, but the Assembly refused to grant this demand by a vote of 38 to 100.¹⁷⁰ The Governor then adjourned the House until the morrow, a power he consistently exercised at this

¹⁶⁶ 1 Md. Arch., Ass., 170.

¹⁶⁶ 1 Md. Arch., Ass., 171. No summons to Mattapanient.

¹⁶⁷ John Rutledge was excused from appearing, as he was a servant.
1 Md. Arch., Ass., 177.

¹⁶⁸ Full text of oath is in 1 Md. Arch., Ass., 170.

¹⁶⁹ 1 Md. Arch., Ass., 171, 174, 196. The Governor, the three Councilors present, and three burgesses served on the committee.

¹⁷⁰ 1 Md. Arch., Ass., 173. Brent with his seventy-three proxies from Kent must have been the determining factor in this vote.

session, though against the protest of some. Then the bill was amended, excepting the Lieutenant General and his apprentices from the levy, and, as amended, was passed.¹⁷¹ It authorized the Governor to make the expedition when and as he wished, and to take out of every hundred every third man who could bear arms, who should be armed and provisioned for two months and transported to and from the expedition at the charge of the hundred. This charge was to be apportioned on all the inhabitants by the freemen of the hundred in a public meeting, and distress was ordered in case any one refused to contribute his share. Persons aggrieved at the assessment might appeal to the Governor and Council in St. Mary's and to the commander and commissioners in Kent, and any surplus stock after the end of the expedition was to be returned to the counties, by them to the hundreds, and by them to the particular persons. In like manner, the "perquisites and benefits, arising" from the "enemies prosecuted by this expedition," which were declared to belong to the Province, were to be distributed to the citizens.

After the bill for the Indian expedition had been presented, the committee, with a trifling change of membership, was continued and directed to draw up a bill "for the better safety of the colony."¹⁷² This act authorized the Governor, "whenever the necessary defence of the Province or any part thereof against the assault or invasion of the Indians shall require it," to impress vessels, men, arms, ammunition, etc., "at the usual rates of the country," and to charge the

¹⁷¹ 1 Md. Arch., Ass., 174, 176, 179, 180, 182. It is impossible to explain the vote. On engrossing, Brent voted nay, as did Cornwallis, Greene and four others for themselves and proxies, while Calvert, Lewger, Langford and four others voted yea. Yet the vote was reconsidered and the engrossing ordered unanimously. On final passage, apparently, of both this and the act for public safety the vote of those present was 7 to 6, but all except Cornwallis (for fifteen of his proxies of St. Michael's hundred, who objected to the exemption of the Governor's servants) finally passed it. I cannot understand why Calvert insisted on this exemption, unless on the score of his dignity.

¹⁷² 1 Md. Arch., Ass., 174, 180 (seemingly some opposition to it), 182, 198.

sum upon the "inhabitants of the Province," as he, with the advice of the Council, shall think fit, provided that the charge of St. Mary's County be not more than four thousand pounds of tobacco a year, nor of Kent more than half that sum. If any pressed person receive "corporal harm in such service, whereby he shall be disabled to follow his labor or calling, he shall be cured and his wife and children," if need be, maintained, till he be able to go to work, at cost of Province or county, as the court¹⁷³ may assess. If any inhabitant be compelled by "public order" to forsake house or goods to assist others and his property be hurt therefrom, his loss shall be "repaired by a public contribution" of the whole county, as the court might assess it. This is the first pension system of Maryland.

We have noted the act requiring passes, recorded by the Assembly at its last session. It made much trouble in this one.¹⁷⁴ On the first day of the session Brent, on behalf of the Kentish men, asked the House to declare whether the inhabitants might freely, without leave, depart out of the Province unless they were indebted or otherwise obnoxious to justice. Calvert quickly answered: "I do not consent that it should be decided by or in this house," and adjourned the session. On the next morning Brent brought up the question again, but Calvert refused to put the question to the freemen as judges. Bozman is doubtless correct in regarding the Governor's act as an attempt to maintain his brother's legal prerogatives, on the analogy of the position of the Crown officers that no one could lawfully leave England without the permission of the King. Lewger now rose¹⁷⁵ and said that, as a Councilor, he thought the matter was proper to be decided by the House, both by former usage, because the writ for the session called them to consult, and because the former act for passes, sent over by Baltimore, had been enacted by the House in June. Calvert, after a little more de-

¹⁷³ Qy. Provincial court?

¹⁷⁴ 1 Md. Arch., Ass., 171, 173. 2 Bozman, 240. Were the Kentish-men restive at the law of June?

¹⁷⁵ 1 Md. Arch., Ass., 174.

bate, declared that "it is the common right of all inhabitants to depart out of the Province at their pleasure, unless indebted or obnoxious to justice, or unless there be some transcendent cause for the safety of the people, for the Lord Proprietary, or his substitute to overrule that right in some particular cases for a convenient time." On the last day of the session some of the members of the House protested against this statement, and Calvert yielded the point entirely and made "no exception of any transcendent cause."¹⁷⁶ Thus was another of the Proprietary's claims to especial privileges whittled away by the opposition of the colonists.

The laws made in June were declared to be in force until the close of the next session, yet, instead of discussing which should be reënacted, the Assembly, on September 6, moved to "repeal" certain¹⁷⁷ of them. It is quite possible that most of these laws had been drafted by Baltimore's advisers in England and that, after mature consideration, the settlers were not willing to continue what they had been quite willing to test. Calvert said he was willing to repeal several of them, such as those for judges and executions. When the reading of them began, however, and an amendment to the act for the support of government was favored by the House, the Governor refused to alter it, and then he "appointed a bill to be drawn for the repeal of all the laws made last Assembly." That afternoon, however, the House appointed Calvert, the three Councilors and four burgesses to be a committee to consider bills to be propounded to the House on next Monday, to which date the Assembly adjourned.¹⁷⁸ The committee met on Wednesday, September 7, and revised several bills. Cornwallis and Brent, heading here as always during this session the popular party, opposed the

¹⁷⁶ 1 Md. Arch., Ass., 180. Was this the anonymous protest Brent tried to present but the House refused to receive on the preceding day? 1 Md. Arch., Ass., 179.

¹⁷⁷ 1 Md. Arch., Ass., 174.

¹⁷⁸ 1 Md. Arch., Ass., 175, 176.

¹⁷⁹ 2 Bozman, 245, calls our attention to the fact that, as the act failed, on Sept. 15, 1642, Calvert appointed a sheriff by his prerogative.

bill for officers, as it forced any citizen selected as sheriff, "against common right and decency," to be a hangman, and did not limit the amount of the sheriff's recognizances, nor the number of offices any one man might be forced to hold.¹⁷⁹ Calvert was willing to except the hangman's office and to limit recognizances to such sum as the business entrusted to a sheriff might amount to,¹⁸⁰ but the committee refused to report the bill.¹⁸¹ Brent and Cornwallis, however, were unsuccessful in their struggle to defeat the act for capital offenses. The committee does not seem to have met on Friday or Saturday, but on Sunday they agreed on twenty-five bills, including the military ones already discussed.¹⁸² They also agreed not to report the acts for the order of hearing causes for executing upon corn or tobacco, and for what shall be judged a lawful tender, and made no recommendation as to the bills for the planting and exportation of corn and against forestallers. On Monday, September 12, the bills reported by the committee were read and slightly amended. The Governor, with Lewger and Langford and three burgesses, counting proxies twenty-six "voices," voted that these laws should "endure till the first meeting of the next Assembly."¹⁸³ Six burgesses, casting forty-six votes, voted to amend this by stating that laws should expire at the end of three years, if no Assembly had been sooner called, while Cornwallis and Brent voted for the period of three years without any alternative. During the noon recess the last two men must have done some brisk campaigning, for when the House came together in the afternoon they had with them all but one of the five burgesses previously holding the middle position and one who voted with Calvert in the morning. Calvert and his other followers of the morning now took the middle position, with one burgess who voted for this provision on both occasions.

¹⁸⁰ 1 Md. Arch., Ass., 175.

¹⁸¹ It was brought up before the Assembly on Monday; Calvert, Lewger, Langford and four burgesses with proxies voted for it, Cornwallis, Brent and three burgesses with proxies were against it and it was lost.

On Tuesday Calvert refused to sign several of the bills proposed by the committee,¹⁸⁴ but finally did so and all became laws, while none of those passed which were not recommended by the committee.¹⁸⁵ Calvert then dissolved this Seventh General Assembly,¹⁸⁶ whose acts expired on September 13, 1645.

EXPEDITION AGAINST THE SUSQUEHANNOCKS.

On September 13, the day the Assembly adjourned, Calvert proclaimed the Susquehannocks, Wicomeses (possibly an Iroquois tribe) and Nanticokes as enemies of this Province,¹⁸⁷ and shortly after Edward Parker was appointed high sheriff of St. Mary's County, and was sworn to "serve the Lord Proprietary and do the Lord's profit," as well as to "truly and rightfully treat the people of your sheriffwick and do right, as well to poor as to rich."¹⁸⁸ On September 21 the expedition against the Indians was begun,¹⁸⁹ and it was concluded on October 13. The sheriff of St. Mary's pressed twenty men, but we have record of only fourteen

¹⁸⁴ 1 Md. Arch., Ass., 176.

¹⁸⁵ 1 Md. Arch., Ass., 177, 179.

¹⁸⁶ 1 Md. Arch., Ass., 180, 181.

¹⁸⁷ Calvert, Lewger, Langford and five burgesses and their proxies wished the act against engrossers reenacted. Cornwallis, Brent, and three burgesses with proxies opposed it and it failed.

¹⁸⁸ John Hallows was allowed one thousand pounds of tobacco and Henry Hooper, the drummer, one hundred pounds for their services, the sums to be assessed two-thirds on St. Mary's and one-third on Kent. The sheriff who collected them was allowed ten per cent. commission. 1 Md. Arch., Ass., 180, Nov. 25. Assessment was made on seventy-eight taxpayers in St. Mary's, of whom three were women and ten were gentlemen, and on sixty-two taxpayers of Kent, of whom four were gentlemen. The Kent assessment was renewed in December, when seventy-one taxpayers were returned. 3 Md. Arch., Coun., 120, 123, 125.

¹⁸⁹ 2 Bozman, 214. 3 Md. Arch., Coun., 116. Chalmers, Introduction to the Hist. of the Revolt of the Am. Col., 76, calls this a "savage Indian war."

¹⁹⁰ 3 Md. Arch., Coun., 117. No reference to England in the oath. The jura regalia were carefully preserved for the Proprietary.

¹⁹¹ 4 Md. Arch., Prov. Ct., 156, 157. 3 Md. Arch., Coun., 117, 119, 121, 125, 137. Two lists of St. Mary's taxpayers are given, containing sixty-seven and fifty-five names. Assessment made in December. Execution against John Hollis for his tax in March. 4 Md. Arch., Prov. Ct., 190.

privates who went with Sergeant McFenin and Surgeon Alexander Pulton. Cornwallis provided some powder and shot and Lewger victualled the expedition, providing salt, pease, corn and an ox, which was killed at Kent Island, where the men stayed two days and whence they seem to have returned without pushing on farther. The total cost of the expedition was covered by an assessment of six thousand pounds of tobacco, two-thirds of which were levied on St. Mary's. Brainthwait was captain of the forces. Cornwallis had refused for some reason to take the oath of a Councilor or to be in the commission, and therefore probably was not made the leader.¹⁹⁰ Shortly after the expedition returned Gerard and Neale were authorized,¹⁹¹ on October 29, to demand satisfaction from any Indians they might find killing their cattle, stealing or injuring their corn, or otherwise trespassing on their lands, and, in default of satisfaction, to "pillage them of what you may within your said lands," use force to chastize them and put them off the lands. If the Indians offer violence to the English in the execution of these powers, the latter may use further violence, and may even kill the Indians.

BRENT'S DIFFICULTIES WITH THE GOVERNOR.

Out of this Indian expedition and the September session of the Assembly arose considerable difficulty between Brent and the Governor. On October 10, before the march was over, Calvert heard "of demeanors" of Brent on Kent Island¹⁹² which made him suspect "some intents and desires of his to disaffect that island and withdraw it into sedition,"

¹⁹⁰ 4 Md. Arch., Prov. Ct., 125.

¹⁹¹ 3 Md. Arch., Coun., 118.

¹⁹² 4 Md. Arch., Prov. Ct., 126. On the Brent family important information is contained in 14 Va. Mag., 100 (July, 1906). From this it seems that Margaret (born 1601, d. after 1661), Mary (d. circa 1657), Fulke (m. Cecilia —, and d. 1656 s. p.), and Giles (m. Margaret and d. 1671), all came to America about 1638. See also 1 Md. Hist. Mag. (1906), 189 and 136, in which it is stated that Giles, with his wife and family, resided on Kent Island, but also resided for a part of the year in his sister Margaret's house in St. Mary's.

and therefore required him to give bond to answer these charges at the next court and to be "of good behavior" in the mean time. Brent considered the matter and then refused to enter the recognizances Calvert required of him, whereupon the latter commanded him not to depart out of St. Mary's hundred until the next court. On the seventeenth Lewger, as attorney for the Lord Proprietary,¹⁹³ entered an information before the court that Brent had first propounded the expedition against the Susquehannocks to Calvert, had consulted with him about it and had been given a commission to raise men at Kent at the country's charge, and had them out upon the service. After Brent arrived at Kent Island, however, he heard of a commission granted Branthwait as commander of the island¹⁹⁴ and, "taking disgust thereat or for some other secret discontent," did not use his commission according to its full power, but, trying to make it ineffectual and yet not daring to disobey it, he left it to the consideration of the Kentish men whether they were willing to be pressed or not, for they should not be urged against their wills. When they refused "that so gentle a proposition," Brent dismissed them without pressing any man, "pretending some illegalities found in the commission."¹⁹⁵ Later he "swallowed" these illegalities and issued a warrant for pressing twenty men. They came with arms ready to be employed,¹⁹⁶ but when they "uttered some expressions of unwillingness he dismissed them again of his own head without authority," thus letting the "whole enterprise and charge fall to the ground," to the disgrace of our nation among the Indians, to the encouragement of the people to despise the like commission at another time, to the imminent

¹⁹³ 4 Md. Arch., Prov. Ct., 128, 135. On Nov. 2 Lewger brought a civil suit in the Proprietary's name against Brent for his conduct on Kent, claiming 5622 pounds of tobacco as damages. 4 Md. Arch., Prov. Ct., 136.

¹⁹⁴ The proof that such commission was issued is found in 4 Md. Arch., Prov. Ct., 131.

¹⁹⁵ I do not find this commission extant.

¹⁹⁶ The soldiers from St. Mary's received each three weeks' pay. 3 Md. Arch., Coun., 122.

danger of the colony and to the damaging of Baltimore and the planters by a fruitless expense and inconvenience. On receipt of these serious charges, laying the whole fault for the failure of the expedition upon Brent, Calvert authorized Robert Vaughan, "lieutenant of our isle and county of Kent," with the other two commissioners,¹⁹⁷ to take testimony in this matter. Brent sent over interrogatories designed to show that the Kent Islanders told him that if the voyage was made they must leave the island, which would be dispeopled; that, if ammunition were taken for the expedition, many houses would be left wholly desolate, that crops unhoused would be lost and that the enemy would follow them back to Kent, destroying their tobacco, hogs and cattle, and killing men in the woods. Brainthwait, addressed as commander of Kent, was directed to collect evidence for the prosecution. On the twenty-first Calvert directed¹⁹⁸ Brainthwait and Vaughan to inquire whether Brent, while he was commander and "chief judge in civil causes," refused to do justice to any plaintiff who demanded judgment until he examined his account book, and if when he found the defendant owed him money he granted no execution until the defendant had made over his crop to him for security. This scandal must be investigated at once and its truth or falsity made known.

Brent took some counter-steps. On October 10 he conveyed¹⁹⁹ all his property to his sister Margaret, and he had Speak, one of the St. Mary's soldiers in the late expedition, depose before Lewger that on October 9, as Speak was coming with the other soldiers to Popley's Island, he saw mut-²⁰⁰ boiled and afterwards eaten by the others, which mut-

¹⁹⁷ 4 Md. Arch., Prov. Ct., 129. Any two may sit, but Ludington must be present. Brent's interrogatives were to be asked of twenty-one men.

¹⁹⁸ 4 Md. Arch., Prov. Ct., 133.

¹⁹⁹ 4 Md. Arch., Prov. Ct., 132, 134.

²⁰⁰ Brent sued five of the soldiers for killing his sheep and seems to have recovered damages from two of them. 4 Md. Arch., Prov. Ct., 164, 165, 201. It is interesting to note that Lewger has just accused Phillpot (a Kentishman) of killing and using one of Baltimore's oxen. 4 Md. Arch., Prov. Ct., 132.

ton Brent suspected to have come from a ewe sheep feloniously killed by Brainthwait's soldiers. On November 2 Brent answered that he delayed at Kent for good reasons and for further orders,²⁰¹ and pleaded not guilty to the charges laid against him. Lewger obtained a judgment against Brent by default, and asked that this answer be taken off the record as containing matters of "scandalous and contemptuous" implications to his Lordship and his authority.²⁰² Brent now came to the court in answer to a warrant, and handed in a written statement that he intended to inquire of learned English counsel whether the judgment against him was rightful, and if they said it was not, "I intend to seek my right at the hands of our sovereign the King." He asked to have this statement recorded. Here was material for consternation, but the court was unmoved. It took Brent's answer off the record, but kept it on file and ordered judgment to be entered. Before this was done Calvert told Brent that if he would yet tender the general issue and "go to trial before the country" the court would not enter judgment. Brent took four days to consider the matter and then agreed to plead to the general issue, which he did on November 14, and the proceedings, after the filing of the complaint, were annulled. A week later a subpoena was issued,²⁰³ directing Brent not to leave St. Mary's until a day was fixed for the trial. Brent now filed a second answer that the bill drawn up against him was so uncertain that he could not tell whether he was tried for a civil or a criminal offense.²⁰⁴ He denied that he had acted wrongly, of whichever nature the charge might be. Lewger now filed a declaration in a civil suit charging six thousand pounds of tobacco as damages,²⁰⁵ which declaration Brent answered and, issue being joined, a panel of twenty-four jurymen was summoned. On December 1 the case was tried, Calvert, Lewger, Blount and

²⁰¹ 4 Md. Arch., Prov. Ct., 136.

²⁰² 4 Md. Arch., Prov. Ct., 140. Calvert and Langford sitting.

²⁰³ 4 Md. Arch., Prov. Ct., 150.

²⁰⁴ 4 Md. Arch., Prov. Ct., 151.

²⁰⁵ 4 Md. Arch., Prov. Ct., 151, 152.

Langford all sitting on the bench.²⁰⁶ There was a curious mixture of judge and party, Lewger being the prosecutor and Calvert being sworn as a witness. The jury found for Brent, and four days later Lewger moved for a new trial, as the issue was understood in one sense by the plaintiff and in another by the defendant. On December 2 Lewger filed a criminal suit against Brent charging him with a misdemeanor; Brent pleaded not guilty, but the form of his plea was not satisfactory to the court and he was ordered to amend it.²⁰⁷ This he did on the twelfth, claiming that his management of the expedition was guided by the best of his discretion for the honor and benefit both of his Lordship and of the colony.²⁰⁸ The court accepted his excuses and found him innocent and also dismissed the civil case. After this vindication we find that Brent was fully taken back into favor and was appointed on December 16 commander of the "isle and county of Kent,"²⁰⁹ with all the powers of a "chief captain" in all matters of warfare, and of a judge in matters not extending to life, member or freehold. With him William Ludington, Richard Thompson, and Robert Vaughan were associated as commissioners. Brainthwait may have left the island, as he is not taxed this month, and this was probably the cause for the new commission. A month later Vaughan and Thompson were empowered to hold one county court to last two days, as Brent was absent.²¹⁰

MISSIONARY LABOR IN 1641-1642.

The Tayac died in 1641,²¹¹ but the good work of the

²⁰⁶ 4 Md. Arch., Prov. Ct., 155. It was unusual to have so many Councilors sitting; business was frequently transacted when but two were present. Brent was amerced for absence. Brent objected to one of the jurors, but his objection was overruled.

²⁰⁷ 4 Md. Arch., Prov. Ct., 160, 161.

²⁰⁸ 4 Md. Arch., Prov. Ct., 164.

²⁰⁹ 3 Md. Arch., Coun., 124.

²¹⁰ 3 Md. Arch., Coun., 127.

²¹¹ The Tayac, sometimes known as Kittamaquund, held his power through his murder of his brother Wannas, or Uwanno, and left the chieftaincy to this daughter. The Indians rejected her and chose another. She married one Fitzherbert, an Englishman, and he, failing in his expectations of a great portion, civilly parted from her. Browne, Geo. and Cecilius Calvert, 125.

Jesuits among the Indians continued. About this time the Tayac's daughter, the "young empress" or queen of Port Tobacco, was baptized at St. Mary's and, at her town, the Tayac's wife and two sons and one hundred and thirty others were converted. The convenience of Port Tobacco's situation and the fact that Piscataway was near the hostile and warlike Susquehannocks induced the priests to remove their station to the former place. They did not confine their work, however, to one center, but a father, an interpreter, and a servant sailed or rowed, in pinnace or galley, up and down the Patuxent and Potomac rivers, preaching to the natives. Miraculous deeds of healing are reported to have followed their prayers. Father Roger Rigby, in spite of three months' illness, acquired such knowledge of the language of the dwellers by the Patuxent that, with an interpreter's aid, he was able to compose a short catechism in that language.²¹²

The Tayac's daughter, "the young empress," was still being educated at St. Mary's, having become proficient in the English language. The priests tell of a miraculous cure of a wounded Indian by application of holy relics to the wound. Father White still preached at Piscataway and converted most of the Indians of that village in 1642. An interesting story is told of how he embarked with a hard-hearted and troublesome captain of New England, "a region full of all Calvinist heresy," early in the year, that he might go to Piscataway from St. Mary's. He feared that the captain would carry him to sea or to New England, but, near the mouth of the Potomac, the ship stuck fast in the ice and could not be moved for seventeen days. Father White walked ashore on the ice and reached his destination, but the floes jammed and sank the ship when the ice was broken up. Father Philip Fisher, the superior and also the only other priest in the mission, re-

²¹² The legend is that the Jesuits had a printing-press at St. Inigoes and printed this catechism, of which Father McSherry saw a copy at Rome about 1840. I Scharf, 190.

mained for most of the time at St. Mary's, to take care of the English and Indians who resorted thither. During the year two other priests came from England after an unpleasant voyage of fourteen weeks, though it did not usually take more than six or eight weeks. After 1642 only broken records of the priests' labors remain.

THE JESUITS' STRUGGLE WITH THE PROPRIETARY.

The letter of 1642, from which we have already quoted, makes reference to the difficulty between the Proprietary and the Jesuits. The Jesuits say that those from whom they had the right to expect aid and protection, too intent on their affairs, violated the immunities of the Church by using their endeavors to have laws passed in Maryland like those in England which declared it unlawful for any ecclesiastical community to acquire or possess land, unless the consent of the civil magistrate be first obtained.²¹³ They add that Baltimore had two priests sent from England to teach the contrary, but that these, when they heard the Jesuits' reasons, fell in with their opinion, and that the laity seemed to be of like mind. The coming of the new Jesuits—those of the hill, as Baltimore called them²¹⁴—was strictly against his orders. The representatives of the order in England in vain importuned the Proprietary to allow them to send out men, and his steadfast refusal to do so caused him to have a "bitter falling out" with his "sister Peasley," and "some discontentment" arose between him and her husband. When one of the Jesuits secretly got

²¹³ Dennis calls attention to their dislike of the manorial system, which Baltimore tried to fix upon the Province, and to the fact that the members of the Society of Jesus brought into the Colony sixty persons in the first five years of its history.

²¹⁴ 28 Md. Hist. Soc., Fund Pubs., 210-221, long letter from Baltimore to Leonard Calvert dated Nov. 21 and 23, 1642. Dennis, in his valuable review of Lord Baltimore's Struggle with the Jesuits, 1 Am. Hist. Ass., Rept., 1900, p. 112 and ff., thinks the restraint of the acquirement of land by Jesuits, the toleration act of 1649 and the encouragement of the settlement of Protestants in the Province were all part of Baltimore's scheme for curbing the power of the ecclesiastics. Streeter, Md., Two Hundred Years Ago, p. 32, states that the author saw Mrs. Peaseley's letters.

on board of Capt. Ingle's ship in the Downs bound for Maryland late in November, 1642, Baltimore in hot anger wrote his brother Leonard of the occurrence "as a high affront unto me." If "the man" who goes to the Province in contempt of Baltimore's prohibition should get away from Calvert before he can lay hold of him, by being sent back to the Indian settlements or elsewhere, still the affront to the Proprietary will remain and "the danger of prejudice be the same." If the new priest escape, Leonard Calvert is ordered to seize Mr. Copley, the temporal co-adjutor of the order, and send him to England by the next shipping, unless "he will bring the other newcomer into your power to send back again." Baltimore's letter is incoherent in its rage, and it is interesting to see how moved was the man who was usually so calm. He has learned accidentally from a Jesuit²¹⁵ in England that the Tayac had given a great deal of land at Piscataway, shortly before his death, to Father White, and prays the Governor to hasten the design concerning which he has already written, "of bringing all the Indians of that Province to surrender their interest and right to me." By the action of Father White might be seen "of what dangerous consequence" the Jesuits' proceedings are to the Proprietary. With characteristic shrewdness Baltimore adds, "Methinks the Indians who are christened, if their conversion be real, might be brought to assist in their labors and contributions of beaver, peak, etc., for the building of the new chapel" at St. Mary's.²¹⁶

Earlier in 1642 the Rev. Mr. Gilmett had come out in Capt. Ingle's ship, as one of the priests sent by Baltimore

²¹⁵ The observance of care to avoid any reference to the ecclesiastical character of the priests or to the word Jesuit in Lord Baltimore's letter shows how he dreaded that it might fall into hostile hands, which might use it against him with the English government.

²¹⁶ Baltimore thanks Leonard Calvert for his kindness to John Langford and Robert Evelin, both of whom have written Baltimore with reference to Calvert's conduct. Baltimore also sends kind respects to Mrs. Troughton and thanks her for a letter she sent answering one of his. See Kilty.

and referred to in the Jesuits' report. Baltimore had recommended him to his brother and desired that Gilmett should sojourn with him, and that his boy, whom he needed as an attendant, be also provided for, and that necessaries of bedding, etc., be provided them. In the end of November the vessel which bore the Proprietor's letter, from which we gain our information, carried the second of these priests, the Rev. William Territt. He is also commended to Leonard Calvert's care, and assurance is given that both of the priests are "men of high esteem here and worthy to be cherished and valued by you." Territt is to be properly accommodated, Baltimore promising to pay the charges of both priests unless Leonard Calvert can otherwise provide for them. Territt is commissioned to acquaint Calvert more particularly with his brother's mind with relation to the Jesuits, and "with the opinion and sense which divers pious and learned men here have to this odious and impious injury offered unto me." Territt has been told what should be done to vindicate Baltimore's honor and "prevent a growing mischief upon" him. The Proprietary thinks his brother has been too complaisant to the Jesuits and writes: "If you do not that right unto me, as I require from you in my instructions,²¹⁷ . . . I shall have just cause to think that I have put my honor there in trust to ill hands, who betray me to all the infamous contempts that may be laid upon me." The Jesuit partisans in England have maligned Leonard Calvert, so that he has no reason to love them very much, while Baltimore has good reason to believe that "they do design my destruction" and will try to arm the Indians and overthrow the government with their aid, if the English will not join their party. "Laymen would be the basest slaves and most wretched creatures upon the earth," Baltimore wrote in his fierce indignation, if all things that clergymen do under the "mask and vizard" of "God's honor and the propagation of the Christian faith" should "be accounted just and to proceed from

²¹⁷ Those of Oct. 20.

God." "If the greatest saint upon earth," he continued, "should intrude himself into my house against my will . . . with intention to save the souls of all my family, but withal gave me just cause to suspect that he likewise designs my temporal destruction, . . . although with all he do perhaps many spiritual goods, yet certainly I may and ought to preserve myself by the expulsion of such an enemy and by providing others to perform the spiritual good he did, who shall not have any intention of mischief towards me." Do not the Italian princes engage in warfare with the Pope himself and yet continue to be Roman Catholics? This argument was undoubtedly written to Leonard Calvert, because Baltimore is not sure of his loyalty in the matters, and he adds that "if you do not, with a constant resolution and faithful affection to me," execute my orders, written and verbal, you will "betray me to the greatest dishonor and prejudice that ever one brother did another." Calvert must also see that neither Gilmett nor Territt receive any prejudice, by "committing my mind to you or by their zealous affection and fidelity to me." Baltimore further rebukes his brother for passing grants "to those of the Hill, of St. Inigoes and other lands at St. Mary's" and Piscataway, because he conceived the lands were in justice due unto them, though contrary to Baltimore's directions. "It was a great breach of trust" in Calvert to make these grants contrary to his brother's orders. If the Jesuits had "just cause of complaint by having grants refused them," Calvert should have referred them unto his brother, "for you are merely instrumental in those things to do what I direct and not to direct me to do what you think fitting." For the future Calvert is earnestly desired to be more observant of his brother's directions, and not to expect to learn the reasons of all directions. The letter ends with this prohibition: "I do once more strictly require you not to suffer any grant of any lands for the future to pass my seal here to any member of the Hill there, nor to any other person in trust for them upon any pretence or claim whatsoever, without especial warrant un-

der my hand and seal." In the same letter Baltimore complains that Calvert gave "kind entertainment in 1641, to certain Dutch" who are planted in Delaware Bay within his Province and who came to St. Mary's last year.²¹⁸ He also states that he hears that the Indians kill the planters' hogs and the government "connives at" the Indians upon pretence of their being made Christians, so that the planters can have no remedy nor "are permitted to right themselves." If this be true it should be redressed.

Business is never wholly lost sight^{218a} of by Cecil, Lord Baltimore, and he asks what has become of the proposition of setting up an iron work, directs that full account be given him of the cattle belonging to him, gives Robert Evelin and Calvert the profit of an adventure which Lady Baltimore made in Virginia last year, complains of the failure of Mr. Kemp in Virginia to deliver certain sheep, and urges that Leonard collect the Indians' tribute, investigate the red earth and get all the freight he can for the vessel which bears the letter, that the "master may be encouraged to adventure thither again."

With reference to the Virginia colony Baltimore writes that their agent in England, Sir John Berkeley, is not a "good solicitor," and suggests that he might help them to obtain their desires "if they would deserve it of me," but they have so "disobliged" him this year that he has little reason to trouble himself in their behalf. Baltimore claims to have deserved better treatment, as his efforts had prevented the Virginians from being "reduced under that com-

²¹⁸ I Scharf, 230. Delaware Bay, discovered by Hudson in 1609, was named by Argall in 1610, and Capt. May in 1614 explored it and named the cape on its eastern point. In 1621 Capt. Hendrickson explored Delaware for the Dutch West India Company and called it South River. In 1629 Godyn and Blommaert had a grant on the west side of the bay. In 1631 Capt. Heyes founded Swaanendael on Lewes Creek, but the savages destroyed it in the next year. In 1638 the Swedes came to Jamestown and later settled on Christiana Creek, and in 1641 the New Haven men made an unsuccessful settlement near Salem, N. J. The Dutch expelled them in 1642.

^{218a} He complains to Calvert that "you do usually omit to give me satisfaction in divers things, wherein you do not well and I have told you often of."

pany" which "they so much abhor." He will use his efforts further for Virginia only in case that colony's Assembly make a declaration importing a "settlement of friendship between me and that colony," an "allowance and approbation" of Baltimore's patent, a "disclaimer of all petitions" against Baltimore sent to England in their name, a condemnation of Claiborne's proceedings against Baltimore, a grant to Baltimore and his Province of fur trade with Virginia, and of leave to transport any goods bought there into Maryland, and a promise to "make a league offensive and defensive" with the Proprietary.

END OF THE STRUGGLE WITH THE JESUITS.

Father More, the English superior of the Jesuits, forwarded²¹⁹ the queries to Rome and wrote a long letter describing the difficulty to the Congregation for the Propagation of the Faith, telling of the work of the Jesuits in Maryland and asking, if possible, that they be permitted to remain and not be superseded by the secular clergy. This letter seems to have been effective. Father More was of a conciliatory disposition,²²⁰ and gave Baltimore a certificate that his Conditions of Plantation would not cause him or any of his officers to be subject to excommunication or to be guilty of mortal sin. More also executed a release of Mattapany²²¹ and other lands acquired and of the right to acquire them from the Indians. Baltimore also prepared a paper to be signed by the Jesuits not only giving up any right to receive lands from the Indians, but also admitting that all ecclesiastics are bound by the laws of the Province, that ecclesiastics have no more rights in Maryland than are granted in England to such persons, that Baltimore's officials may institute judicial process against ecclesiastical persons and their property without incurring any sin, and that testa-

²¹⁹ Johnson, p. 78.

²²⁰ Johnson, p. 83.

²²¹ Johnson, p. 84. Mattapany was given by the chief of Patuxent and divided into the manors of the Immaculate Conception and of St. Gregory.

mentary and matrimonial causes may be heard by Baltimore's appointees without their committing sin until an ecclesiastical tribunal be constituted with the Proprietary's consent.²²² To these terms the Jesuits yielded, peace was made and the secular priests were recalled. Three interesting survivals of the struggle between Baltimore and the Jesuits are found in the laws of the state to-day: no ecclesiastic may sit in the General Assembly; no gift, sale, or devise of land, nor gift, nor sale of goods or chattels to take effect after the death of donor or seller can be effective without ratification by the Assembly; and Maryland is the only state of the Union which requires a religious ceremony for the completion of a marriage.

²²² A form of agreement between the Proprietary and the Jesuits is printed in Johnson, p. 90, but he thinks it was not signed. It agrees with the provisions above cited, and adds that corporal punishment shall not be inflicted on a Jesuit in Maryland unless the offense be a capital one, that no Jesuit be sent to Maryland without Baltimore's prior license, and that, if Baltimore wish any Jesuit removed from the Province, such removal must be made at the Proprietary's expense within a year.

INDEX

- Abolition in North Carolina, 500-503.
- Adams, John, on Armed Neutrality, 258-259; advice to Dana as minister, 262; commissioner of arbitration, 263, 277-278; on attitude of France toward U. S., 266; on money for Russian ministers, 269; on attitude of France and England toward U. S., 277-278; on foreign relations of U. S., 279; nominates Rufus King minister to Russia, 280; wants peace with France, 283.
- Adams, John Quincy, minister to Russia, 290-292; instructions, 292; reception, 293; and northwest coast of America, 298-300, 408, 410, 438; on Russian friendship for America, 302; on Russian-American commercial treaty, 302-304, 403-404; on Russian mediation in War of 1812, 308, 310; on England and France, 308-309; minister extraordinary to England and Russia, 314-315; instructions, 316; enters on mission, 318; on token of esteem from Russia, 322, 324; on England's refusal to arbitrate in War of 1812, 324; negotiations, 323-333; received by Russia, 326; transferred from Russia to England, 339; secretary of state, 361; instructions to Campbell, 368-371; on Florida treaty, 376; policy of conciliation, 376-377; instructions to minister, 395-396, 417-418.
- Administration, financial, of American trade unions, 219, 248.
- Agreements, trade, in trades councils, 702; in industrial unions, 735.
- Alaska boundary, 285-286, 295-300, 361-362, 370-371, 373-374, 383, 405-420, 426-438.
- Alexander I., friendship for U. S., 284, 286, 293, 300-302, 310, 336, 389; offers mediation in War of 1812, 307-308, 312, 321, 336; withdraws offer, 317, 320, 329, 338; and Romanzoff, 321, 329-330; urges general peace, 334; on consular immunity, 344, 346-347, 354, 363-364; on Russian-American commercial treaty, 360, 370; on Spanish-America, 367-370, 386, 388-390, 421; sells ships to Spain, 370; on U. S. and Holy Alliance, 380; mediator in slave case, 398, 400-402; trade ukase, 407; Spanish revolution, 420; on private war at sea, 440.
- Aliens, protection of in Cuba, 30-31, 37, 55-59, 71-73, 84.
- American party in North Carolina, 538-540, 548, 551.
- "American Recorder," the (N. C.), quoted, 484.
- Annapolis Trade Convention, North Carolina delegates to, 460-461.
- Anti-federalists in North Carolina, *see* North Carolina.
- Appeal, sympathetic, in American trade unions, 138-140.
- Arbitration, in labor federations, 661 (note); in trades councils, 706-707.
- Armed Neutrality, 258-259, 269, 274, 276-277.
- Arntz, E.-R., quoted, 39.
- Assemblies of Maryland (1639-42), 759-764, 766-767, 773-776, 778-786, 789-795.

- Assembly, national trade, of
Knights of Labor, 636-638.
"Assumption" in North Carolina, 476-478.
Atooi Island, 374.
Auditing in American trade unions, 233-234, 242 (and note).
Autonomy, Cuban, 62-63, 66-68, 84, 86-88, 94; trade, 621, 694.
Badger, Geo. E., 516, 518, 520, 522-523, 525-527, 533 (note), 534, 541, 561, 566, 578, 581, 592, 594-596.
Bagot, Sir Charles, 397, 399, 418-420, 424.
Bakers' and Confectioners' International Union, Journeymen, 246.
Baltimore, Lord, *see* Calvert, Cecilius.
Barbers' International Union of America, Journeymen, 182, 183 (note), 215, 225, 244-246.
Barker, W. B., quoted, 64.
Battle, Kemp P., 594 (note), 596.
Bayard, James, as minister to Russia, 314-319, 323, 326, 330, 339.
Bell, John, 559-562.
Belligerency, recognition of, 10-15, 367, 372-373, 377-378, 384-385, 420-421.
Benefits in American trade unions, 167-196; early features, 167-168; death or disability, 168-177, 191, 193, 246-248; sickness, 177-183; out-of-work and travelling loans, 183-191; amounts expended, 191-194; difficulties, 194-196; among railway employees, 723-724.
Benjamin, Judah P., 595 (note).
"Bermuda," the, filibuster, 22.
Biggs, Asa, 535 (note).
Bill of rights of North Carolina, 455-456.
Blacksmiths' and Machinists' International Union, 228.
Blacksmiths, International Brotherhood of, 168, 211.
Blanco, Gen., 61, 63-64, 79, 85, 89, 93.
Bledsoe, Moses A., 555 (note), 595.
Blockade, 360.
Bloodworth, Timothy, 465, 467.
Blount, Wm., 461, 464 (note).
Bluntschli, J. K., quoted, 34, 39.
Boiler Makers and Iron Shipbuilders of America, Brotherhood of, 215, 218 (note), 238-239, 244 (and note), 685, 704.
Bonaparte, Napoleon, alliance with Russia, 293; orders proscription, 294-295; closes Russian ports, 300-301; Russian campaign, 306, 312; makes advances to Russia, 321.
Bonding in American trade unions, 232-233, 244-245.
Bonfils, H., quoted, 34.
Bookbinders, International Brotherhood of, 215, 708 (note).
Boot and Shoe Workers' Union, 116-118, 122-123, 145, 162, 177, 182, 193, 199 (note), 202-205, 213, 217, 225, 231 (note), 232, 233 (note), 235-236, 242, 246, 717 (note), 738-739, 746.
Boycott, in Knights of Labor, 661-662, 745; in Am. Federation of Labor, 662-663, 745; in Am. Labor Union, 662; in trades councils, 713-714; in industrial unions, 745-746.
Bragg, Thomas, 535, 537, 539, 547, 583, 594-595.
Brainthwait, Wm., 753, 760, 796, 800.
Breckenridge, John C., 559-562, 571-572.
Brent, Giles, 752, 760, 773, 777, 796-800.
Brewers' Association, Master, 719.
Brewery Workmen of the United States, National Union of the United, finances of, 114 (note), 224, 225 (note), 227, 232, 246; effect of machinery in, 611; jurisdictional disputes, 650-651, 750; history, 718-720; structure, 727-733; unit of organization 727;

- conventions, 727-728; executive board, 728-729; strikes, 730-731, 741; officers, 731-733; functions, 736-750; trade agreements, 736-737; boycott, 745; political activities, 747.
- Bribery in diplomatic relations, 269, 275-276.
- Brice, A. C., quoted, 62.
- Bricklayers' Association of Philadelphia and Baltimore, 614.
- Bricklayers' and Masons' International Union of America, 106 (note), 108, 121, 125, 128, 131 (and note), 132-133, 138, 142, 144, 162-164, 192 (note), 197, 200-202, 209, 211-212, 216 (and note), 218, 220-221, 228, 232, 615, 617 (note), 653-654, 685-686.
- Bricklayers' and Masons' Union of St. Louis, 703.
- Brickmakers' Alliance, National, 119.
- Bridge and Structural Iron Workers, International Association of, 685-686.
- Brock, Father John, 756, 759.
- Brooks-Summer affair and North Carolina, 538.
- Brown, Bedford, 498-499, 570, 580 (note).
- Brown, John (of Ossawatimie), 548-551, 553.
- Buchanan, James, 537-538, 541, 547-548.
- Builders' Association of Chicago, 159.
- Building Trades Council, International, 651 (note); history, 679-683, 685; structure, 688, 692-696; functions, 697-715; jurisdictional disputes, 697-702; eight-hour day, 704; trade label, 704; strike, 711-713, 744; and legislation, 714.
- Building Trades Council of Chicago, 690; of Cleveland and Vicinity, 690; of Charleston, 713.
- Busbee, Quentin, 578 (note), 581.
- Cairnes, John Elliot, quoted, 106 (note).
- Calhoun, John C., 488-489, 491, 503.
- Calvert, Cecilius (Lord Baltimore), 756, 768, 774-775, 777, 802-808.
- Calvert, Leonard, 751, 769-770, 774, 780-781, 788-789, 792-793.
- Calvo, Carlos, quoted, 24-25, 39.
- Calwell, David, 465, 467.
- Campbell, Geo. W., as minister to Russia, 368 (and note), 373, 382-383, 392-393.
- Canning, George, and U. S., 415, 422.
- Canning, Stratford, and U. S., 416.
- Capodistrias, Count, on Russia and U. S., 347-351, 353-354, 402, 414.
- Car Workers, International Association of, 211.
- Carlisle, Calderon, quoted, 18-20, 21.
- "Carolina Watchman," 592 (note).
- Carpenters and Joiners, Amalgamated Association of [British], 109, 111.
- Carpenters and Joiners of America, United Brotherhood of, 115, 139-140, 148, 150-152, 158-159, 173-177, 182, 183 (note), 192 (note), 193, 195, 206, 209, 211, 213, 217, 221-222, 227, 229-230, 232-234, 242, 246, 669 (note), 685-686, 699-700.
- Castlereagh, Lord, quoted, 34; on Russia and U. S., 317, 328, 330-331, 395-396.
- Caswell, Richard, 454 (and note), 459-462.
- Caswell, Fort (N. C.), 576-577, 590.
- Cathcart, Lord, on Russia and U. S., 308, 317, 325.
- Catherine II. and Armed Neutrality, 257-258; and U. S., 266-268, 271.
- Cedar Rapids plan, in railway unions, 687.
- Cement Workers, American Brotherhood of, 682 (note).

- Central Trades and Labor Council of New Orleans, 634.
- Chambers, Wm. L., quoted, 79.
- Chandler, Wm. E., quoted, 74.
- Chatham Co. (N. C.), 486 (note), 490-492, 512, 539, 541, 597.
- Chilomaccon, *see* Tayac.
- China, trade with northwest coast of America, 298, 405-406.
- Cigar Makers' International Union of America, finances of, 106, 108 (and note), 110-112, 116 (note), 121-122, 124, 131 (and note), 132, 135 (note), 137 (note), 138, 139 (and note), 142, 143 (note), 145, 148-150, 152-155, 161, 168-170, 172, 177-179, 184-186, 188-190, 192-193, 198, 201-202, 204-206, 208-209, 212, 214-218, 220, 221 (note), 227, 231 (note), 235 (note), 236, 241-243, 247; and Knights of Labor, 625-626; union label, 657, 659.
- Cigar Makers' Official Journal*, 212, quoted, 623.
- Claiborne, Wm., 753 (note), 754 (and note).
- Clarke, Henry T., 567.
- Clay, Henry, and Spanish-America, 367; and North Carolina, 488, 490, 508, 514-515, 518.
- Cleveland, Grover, quoted, 13, 58-60, 74.
- Clingman, Thos. L., 516, 523, 526, 532 (and note), 535 (note), 537, 541-542, 547, 572-574, 583, 595.
- Coal Hoisting Engineers, National Brotherhood of, 119, 211.
- Colombia, S. A., 421.
- Columbia River, 298-299, 426.
- Comity of nations, violation of, 23.
- Commerce, considered as filibustering, 19; injured in war, 49-50, 52-55.
- "Commodore," the, filibuster, 20-21.
- Community of funds in trade unions, 108-116.
- "Competitor," the, filibuster, 58.
- Compromise of 1850 and North Carolina, 527-528, 533.
- Constitutional Convention (1787), North Carolina delegates to, 461-464.
- Consular immunity, 339-355, 362-364.
- Contraband, 258, 281, 296, 439.
- Convention expenses in American trade unions, 214-218.
- Coöperation, in Knights of Labor, 659; in Am. Federation of Labor, 661.
- Coopers' International Union of North America, 247.
- Cornwallis, Thos., 751, 796.
- Craige, Burton, 573, 586, 595.
- Crawford, William H., and Russian relations, 334-335; and North Carolina, 488-491, 508.
- Criminal code of Md. (1642), 784-785.
- Cuba, condition in before War of 1898, 9-10; methods of warfare in, 9-10, 26; non-recognition by U. S. as belligerent, 10-15; reasons, 13-15; practical recognition as insurgent, 17; filibustering in, 17-23, 28-31; the Junta, 23-28; alleged rights of intervention by U. S. in, 36-82; for destruction of the *Maine*, 41-47; for self-preservation, 47-49; for commercial and financial reasons, 49-55; for protection of American life and property, 55-59; for sake of humanity, 59-69, 82; for combined reasons, 81; value of American property in, 55; maltreatment of Americans in, 57-59; reconcentration in, 60-66, 74-76, 85, 89; Spain's inability to subdue insurrection in, 67-68; and Spanish Treaty Claims Commission, 69-82.
- Dana, Francis, mission to Russia, 257-278; made minister to Russia, 259; instructions, 260; delays, 261-262; not

- received, 264-266, 268-275; withdraws, 274, 276-278.
- Dana, R. H., quoted, 12.
- Daschkoff, André, Russian consul-general in U. S., 286, 290-291, 295, 305, 311, 316 (note), 341-344, 355, 358, 374-375, 406.
- "Dauntless," the, filibuster, 22.
- Davie, Wm. R., 458, 461-465, 467, 469, 474, 481-482.
- Day, Wm. R., 41-42, 85, 88-89, 92.
- Death benefit in American trade unions, 168-177, 191, 193, 246-248.
- Debs, Eugene V., 725, 726.
- Defense fund, finances of, 130-137; in Knights of Labor, 666; in Am. Federation of Labor, 666; in Am. Labor Union, 667; in trades councils, 711-712, 744; in industrial unions, 741.
- Delgado* case, 57-58.
- De Lôme, Señor, 26-27, 85.
- Democratic party in North Carolina, *see* North Carolina.
- Dick, Robert P., 560 (note), 596.
- Diekema, G. J., quoted, 75-77.
- Diplomatic negotiations of United States with Russia (Hildt), 257-442.
- Disability benefit in American trade unions, 168-177.
- Douglas, Stephen A., 534, 541, 545, 558, 560, 562.
- Dred Scott case and North Carolina, 540-541.
- Dual affiliation, in Knights of Labor, 653-656; in Am. Federation of Labor, 653-657; in Am. Labor Union, 656-657.
- Edwards, Weldon N., 586, 595.
- Eight-hour day, 614-617, 622; in Knights of Labor, 667-668; in Am. Federation of Labor, 667-669; in Am. Labor Union, 669; in International Building Trades Council, 704; in Colorado, 723.
- Electrical Workers, International Brotherhood of, 225, 247, 682 (and note), 686, 701.
- Elevator Constructors, National Union of, 701.
- Ellis, John W., 542-547, 549, 556-558, 567, 572, 577, 581, 584, 589-593.
- Embargo acts, 286, 288, 337.
- Employers and trade agreements, 702-703, 735.
- Employment, stability of, in building trades, 610 (note).
- Engineers, Amalgamated Society of, 630, 652 (note), 748-749.
- England, attitude toward America (1781), 267; joins Coalition of 1798, 279; blockade of Europe, 284; war with Russia, 286; blockade of Chesapeake and Delaware, 312; refuses Russian mediation in War of 1812, 316-318, 323; offers to treat with U. S., 317, 323, 330-331; opposes Russia, 357; on Spanish-America, 369, 379, 382, 396; and northwest coast of America, 371, 405, 415-416, 418, 420, 424-425; on slaves in war, 394-402.
- Exports, Cuban (1895-96), 10; American (1798-1812), 280 (note), 301 (note).
- Farmers' Alliance, 661.
- Federalists in North Carolina, *see* North Carolina.
- Federation of Labor, American, defense fund in, 133, 666; "organizers" in, 204 (and note); finances of journal of, 213; investments of, 235; history, 622-626, 676-677; structure, 631-649; unit of organization, 632; local federation, 634; state federation, 636 (and note); national industrial union, 636; representative convention, 639-642, 693; referendum, 642; general executive board, 643, 646-647; president, 644-647; finances, 648-649; functions, 650-677; jurisdictional disputes, 650-653, 748-750; dual affiliation,

- 653-657; working card, 655; trade label, 657-659; coöperation, 661; boycott, 662-663, 713-714, 745; strike, 664-665, 668-669, 743; eight-hour day, 667-669; political activities, 669-670, 673, 675-676; and International Building Trades Council, 682-683, 697-698; and Structural Building Trades Alliance, 685; and United Brewery Workmen, 719-720; and United Mine Workers, 722; and Brotherhood of Railway Employees, 724; and Amalgamated Society of Engineers, 748-749.
- Federation of Labor of Chicago, 634-635.
- Federation of Organized Trades and Labor Unions, *see* Federation of Labor, American.
- Federations, local, state and national, in Knights of Labor, 633-636; in Am. Federation of Labor, 634, 636; in Am. Labor Union, 634, 636.
- Fenwick, Cuthbert, 760.
- Ferebee, D. D., 568, 596.
- Filibustering, laws against, 17-18; expeditions, 18, 20-22; considered as commerce, 19; laxity of U. S. against, 23, 27-30.
- Finances of American trade unions, 105-248. *See also* Trade unions.
- "Financiers" in American trade unions, 112, 223, 242-243.
- Fiore, Pasquale, quoted, 25, 39.
- Fisher, Father Philip, 756, 801-802.
- Fishing, right of, on northwest coast of America, 407, 417, 420, 428-431, 433-436.
- Flack, Horace Edgar, "Spanish-American diplomatic relations preceding the War of 1898," 9-95.
- Flint Glass Workers' Union, American, 119-121, 136, 147.
- Florida, American occupation of, 367; treaty of, 376, 381-383, 388-389.
- Force bill (1833) and N. C., 497.
- Foreign ministers, residence at Washington, 354 (note).
- Forsyth, John, 381-382, 387.
- Founders' Association, National, 156.
- France, attitude toward U. S. (1781), 263-266, 277; rupture with U. S., 279; Coalition of 1798, 279; trade prohibitions, 300-302; on Spanish-America, 372, 388; invasion of Spain, 420.
- Franklin, Benjamin, advises Dana, 261; on appointment of ministers, 262 (and note); commissioner of arbitration, 263, 277-278; on money for Russian ministers, 269.
- Franklin, state of, 472 (and note).
- Fuller, Chief Justice, quoted, 77.
- Funck-Brentano, quoted, 34.
- Furniture Workers' Union of America, International, 168.
- Gage, Lyman, quoted, 29.
- Gallatin, Albert, as minister to Russia, 313-316, 318-319, 323, 326-330, 334.
- Garcia, Calixto, 63.
- Garment Cutters' Assembly of Knights of Labor, 619.
- Garment Cutters' Union of Philadelphia, 619.
- Garment Workers of America, United, 114 (note), 115, 139 (note), 150, 153, 182 (note), 204-205, 214, 223-224, 746.
- General Trade Union of Boston, 613.
- General Trade Union of City of New York, 613.
- Gerard, Thomas, 755, 776.
- Ghent, treaty of, Russia and the slavery clause, 394-395, 397-402.
- Gilmer, John A., 539, 541, 551-552, 584 (note), 596.
- Glass Bottle Blowers' Association of the United States and Canada, 118-121, 124, 129 (note), 133-135, 137 (note), 146-147, 152, 169,

- 171-172, 191, 198, 200-202, 209, 221-222, 233, 235 (notes).
- Glass Bottle Manufacturers' Association, 135.
- Glass Workers' International Association of America, Amalgamated, 169 (note), 247.
- Gomez, M., 61.
- Graham, Wm. A., 516-518, 521-522, 532-533, 541, 561, 566, 592, 595-596.
- Granite Cutters' National Union of the United States of America, 107 (note), 116, 118, 128, 132, 142, 144 (note), 148-151, 162, 168, 200, 210, 215-216, 227, 242.
- Grant, Gen., quoted, 75, 77.
- Gravener, Father John, 756, 758-759.
- Greeley, Horace, 533, 536, quoted, 540 (note), 550.
- Guilford Co. (N. C.), 486 (note), 490-492, 512, 539, 541, 588 (note), 597.
- Gullon, Señor (Duke of Tetuán), 22-26, 28, 54, 84, 91, 95.
- Halifax (N. C.), 454; Congress of, 454.
- Hall, Wm. Edw., quoted, 11-12, 27-28, 32-33.
- Halleck, Gen., quoted, 75.
- Harris, Sir James, 270-271.
- Harris, Levett, as consul and chargé in Russia, 284, 314, 339, 346-353, 355, 362-363, 395.
- Hartford Convention and North Carolina, 483-484, 564.
- Hat Finishers' National Trade Association of the United States of America, 106 (note).
- Hatters of North America, United, 119-120, 204, 746.
- Haywood, Wm. H., 520.
- Heat, Frost and General Insulators and Asbestos Workers, National Association of, 682 (note).
- Heffter, A. W., quoted, 39.
- Hershey, Amos S., quoted, 11-13.
- Highlanders of N. C., 454 (and note), 457-458.
- Hildt, John C., on "Early diplomatic negotiations of the United States with Russia," 257-442.
- Hillsboro, N. C., 501; Convention, 467-471.
- Hod Carriers' and Building Laborers' International Union, 685-686.
- Holden, William W., 537, 540, 542-545, 547, 559 (note), 560, 565, 570-571, 573, 575, 578-579, 581, 592, 594 (note).
- Holy Alliance, and United States, 349, 364, 367-368, 372, 380-381, 385-386, 390-391, 396, 437.
- "Horsa," the, filibuster, 21-22.
- Horseshoers' International Union of the United States and Canada, Journeymen, 107 (note), 108, 117, 128, 133, 137, 143 (note), 149, 197, 210, 220-221.
- Hyatt, P. F., quoted, 62-64, 84.
- "Impending Crisis of the South" (H. R. Helper), 550-552, 588 (note).
- Impressment, 314, 319, 336, 439.
- Indians, sale of munitions of war to, 286, 295, 298-299, 405-406, 410, 432-435, 437; sale of liquor to, 432-435, 437; in Maryland (1639-42), 751-753, 756-758, 777-778, 786-788, 790-791, 795-796, 801; in Virginia (1639-42), 752, 787.
- Industrial Congress of the United States, 613, 616-617.
- Industrial federations of the United States, 609-612.
- Industrial Union, history, 717-726; structure, 727-733; unit of organization, 727; conventions, 727-728; executive board, 728-729; president and other officers, 729-733; functions, 734-750; organization of new members, 734; trade agreements, 735-

- 737; trade label, 737-739; strikes, 739-744; boycott, 745-746; political activities, 746-748; jurisdictional disputes, 748-750.
- Initiative, in American trade union conventions, 216; in American Labor Union, 642; in Knights of Labor, 642.
- Insurance in industrial unions, 612.
- Insurgency, 15-16.
- Internal improvements in North Carolina, 499, 521-522, 542.
- International Labor Union, 617.
- International Steam Engineer*, 213-214.
- Intertrade associations, definition of, 609 (and note).
- Intervention, authorities on, 32-36; alleged rights of, by United States in Cuba, 36-82; for self-preservation, 47-49; for commercial and financial interests, 49-55; for protection of American life and property in Cuba, 55-59; for sake of humanity, 59-69, 82; for combined reasons, 81; and Spanish Treaty Claims Commission, 69-82.
- Investments of American trade unions, 234-236.
- Iredell, Gov. James, 493 (and note).
- Iredell, Judge James, 458, 466-467, 469, 479-480, 482, 493 (note).
- Iron Molders' International Journal*, 212.
- Iron Molders' Union of North America, 106-107, 114 (note), 117-118, 122, 124, 131 (and note), 132-133, 136, 138, 142, 143 (note), 149, 151 (note), 153, 155-157, 161, 168, 174-176, 178-180, 183, 192-194, 196 (note), 198, 200-201, 203 (note), 206, 209-213, 215-216, 218 (and note), 220-225, 227-228, 231 (note), 232 (note), 235 (note), 238, 240, 244, 247, 685.
- Iron, Steel and Tin Workers of the United States, National Amalgamated Association of, 107 (note), 114 (note), 119-121, 135-136, 143 (note), 144, 148, 152, 214, 233 (note), 617-618.
- Jackson, Andrew, 488-493, 498, 503, 508, 515.
- Jay, John, 263, 266, quoted, 278.
- Jefferson, Thomas, commissioner of arbitration (1781), 263, 278; friendly attitude toward Russia, 283-285; sends minister there, 287, 289.
- Jesuits in Maryland (1639-1642), 756-759, 763-764, 768-773, 800-808.
- Johnson, Fort (N. C.), 576-577, 590.
- Johnston, Samuel, 453-454, 458, 465, 467, 471-472, 474, 477, 479, 482.
- Joint Conference Board of printing trades unions, 679 (note).
- Jones, Willie, 453-455, 458-459, 461, 465-468, 470, 472-473.
- Journal of United Labor*, 671.
- Journals, labor, and boycotts, 745-746.
- Junta, Cuban, 21, 23, 25-26, 28, 30.
- Kansas-Nebraska Bill and North Carolina, 534-536.
- Kennedy, Crammond, quoted, 80.
- Kent Island (Md.), 753.
- Kentucky Resolutions and North Carolina, 480-481, 483 (note), 564.
- King, Rufus, as minister to Great Britain, 279-283.
- King, William R., 356-358.
- Kirk, William, on "National labor federations in the United States," 609-750.
- Knights of Labor, defense fund of, 131-132, 666; sympathetic appeal in, 138; early beneficiary work, 168; history, 619-626, 676; structure, 631-649; unit of organization, 631-632; local federation, 633-634; state federation, 635-636; national trade as-

- sembly, 636-638; representative convention, 639, 641, 646; initiative and referendum, 642, 644; general executive board, 643-644, 646; president, 644-647; finances, 647-648; functions, 650-677; jurisdictional disputes, 650; dual affiliation, 653-656; working card, 655; label, 657-658; coöperation, 659-661; boycott, 661-662, 745; strike, 663-664; eight-hour day, 667; political activities, 669-672, 674; and miners' unions, 721.
- Know Nothing party in North Carolina, 538-540, 548, 551.
- Kodiack, Russian colony, 286.
- Kosloff, Russian consul general, 340-344, 346-349, 350-355.
- Label, union, finances of, 204-205; in Knights of Labor, 657-658; in Am. Federation of Labor, 657-659; in Am. Labor Union, 659; in trades councils, 704; in industrial unions, 737-739.
- Labor Compendium*, in legislation, 714.
- Labor federations, general, in the United States, 609-610; history, 613-630; structure, 639-649; representative convention, 639-643; general executive board, 643-644; president, 644-647; finances, 647-649; functions, 650-677.
- Labor Union, American, history, 627-630; political activities, 628-630; structure, 631-649; unit of organization, 633; local federation, 634; state federation, 636; national industrial union, 636, 638; representative convention, 641-642; initiative and referendum, 642, 644, 647; general executive board, 643-644, 646-647; president, 644-647; finances, 649; functions, 650-677; jurisdictional disputes, 652-653; dual affiliation, 656-657; boycott, 662; strike, 665; defense fund, 667; eight-hour day, 669; political activities, 672-673, 676; and Brotherhood of Railway Employees, 724.
- Labor Union, Western, *see* Labor Union, American.
- Laborers' Union, International, 682 (note).
- La Fayette, Marquis de, and Russian mediation in War of 1812, 335-336.
- Lawrence, T. J., quoted, 11, 32.
- Leather Workers on Horse Goods, United Brotherhood of, 117, 170, 178, 182, 183 (note), 190 (and note), 192-193, 198, 213-215, 227, 230.
- Lee, Fitzhugh, 41-42, quoted, 61.
- Le Fur, L., quoted, 29, 48, 56, 66-67.
- Legislation and Knights of Labor, 669-672, 674; and Am. Labor Union, 672-673; and Am. Federation of Labor, 669-670, 673, 675-677; and trades councils, 714-715.
- Lewger, John, 751, 786.
- Lincoln, Abraham, 546, 559-560.
- Livingston, Robert, and Russia, 267-268, 274.
- Local unions, finances of, 105, 109, 111-121, 124, 161-162, 236-245; in general labor federations, 631; in industrial unions, 727.
- Lockouts, revenue for, 130. *See also* Strikes.
- Locomotive Engineers, Grand International Brotherhood of, 106 (note), 136, 209, 242.
- Locomotive Firemen, Brotherhood of, 107 (note), 136, 152 (note), 209, 245, 686.
- Longshoremen, Marine and Transport Workers' Association, International, 119, 197, 612, 728, 730, 732 (note), 734.
- Lowndes, William, 368 (note).
- McDowell, Joseph, 465, 467.
- MacFarland, W. W., quoted, 43.
- McGarr, Owen, quoted, 62.
- Machinists, International Association of, 106, 113, 115, 139

- (and note), 143 (note), 149-151, 153, 157-158, 162, 168, 171, 183, 190-191, 192 (note), 193, 198, 203, 206, 209-211, 213, 217, 218 (note), 221, 227, 231 (note), 232 (note), 235-236, 242, 244, 247, 652 (note), 749.
- McKinley, Wm., 14-15, 37, 47, 58, 60, 74-76, 84, 91-94.
- MacLaine, Alexander, 458, 467.
- Macon, Nathaniel, 483, 486-487, 490 (note), 496, 511.
- Macon, Fort (N. C.), 577, 590.
- Madison, James, sends minister to Russia, 289-291; instructions, 290; message, 304; on Russian mediation in War of 1812, 313; decides Gallatin's standing, 315; instructs ministers, 316; proclamation, 337.
- Maine, destruction of the, 38, 40-47, 81, 83.
- Mamiani, Count, quoted, 39.
- Mangum, Willie P., 498-499, 516-518, 523, 533 (note), 534 (note), 541, 595.
- Marble Workers, International Association of, 210.
- Mare clausum*, 409-411.
- Maritime Confederacy, 259, 260 (and note), 391.
- Maritime rights, 317; *see also* Impressment.
- Martens, G. F. de, quoted, 34.
- Martin, Alexander, 461-464, 466, 479.
- Maryland during English Civil Wars, 750-808; Indians, 751-753, 777-778, 786-788, 790-791, 795-796, 801; Claiborne's property, 753-755; Jesuits, 756-759, 768-773, 800-808; Assemblies, 759-764, 766-769, 773-776, 778-786, 789-795; laws, 760-763, 766-767, 775, 779-786, 790-795; events of 1641, 764-766; Conditions of Plantation, 768-770; events of 1642, 777-778; Governor's new commission, 788-789; Brent's difficulties with Governor, 796-800.
- Maury, Wm. A., 76-79.
- Meat Cutters and Butcher Workmen of North America, Amalgamated, 114 (note), 140 (note), 200, 239, 245 (note), 727-728, 741-742.
- Mecklenburg Co. (N. C.), 571 (note).
- Mediation expenses in American trade unions, 199-202.
- Metal Trades Alliance, 157.
- Metal Trades Federation, history, 679, 683-684; structure, 688, 693-696; strikes in, 711-712, 744; legislation, 714.
- Metal Workers' International Union, United, 149.
- Mexican War and North Carolina, 521-524.
- Middleton, Henry, made minister to Russia, 395; instructions, 395-396, 417; *see* Castle-reagh, 396; to St. Petersburg, 397; negotiates about Emperor's mediation in War of 1812, 397-399, 402; and northwest coast of America, 412-414, 425-426, 428-434, 437; on private war at sea, 439.
- Mills, R. Q., quoted, 40.
- Mine Workers of America, United, revenue of, 114 (note), 119, 139-140; expenditures of, 144-145 (and note), 152, 200, 202, 209-211, 213-215, 218; financial administration of, 222, 227, 232 (note), 235-236, 239, 244, 248; jurisdictional disputes, 651 (note); history, 721-722; structure, 727-733; unit of organization, 727; executive board, 728 (note); president and other officials, 729-733; strikes, 731, 741; boycott, 745, 746 (note); political activities, 747; jurisdictional disputes, 750.
- Miners' and Laborers' Benevolent Association, 720.
- Miners and Mine Laborers, National Federation of, 721.
- Miners' Association, American, 720.

- Miners' National Association, 720.
- Miners' National Progressive Union, 721.
- Miners, Western Federation of, 627, 630, 669; history, 722-723; structure, 727; unit of organization, 727; president, 730; strikes, 731, 740-742; functions, 736; trade agreements, 736; political activities, 747-748.
- "Minerva," the (N. C.), 485-486.
- Minorca, Island of, 267, 357.
- Mitchell, John, 728 (note).
- Monroe, James, on Russian-American friendship, 307, 334; on Russian mediation in War of 1812, 313; on consular immunity, 343-344; messages, 388-389, 437-438; makes Middleton minister to Russia, 395; and north-west coast of America, 408, 411, 437; his "doctrine," 422-424.
- Monroe doctrine, 422-424.
- Moore, J. B., quoted, 14.
- More, Father Henry, quoted, 763, 807.
- Morehead, James M., 515, 541, 582, 584 (note), 595.
- Moret, Señor, 86-88.
- Moses, Franklin J., 586 (and note), 588.
- Musical Union, International, 630.
- National labor federations in the United States, by Wm. Kirk, 609-750.
- National Labor Union, 614-615.
- National League of North America, 620.
- "Nationalization and equalization" in American trade unions, 108-116.
- Negroes, free, in North Carolina, 500-502.
- Nesselrode, Count, and U. S., 321, 335, 346, 354, 360, 362, 382-383, 398-399, 402, 418, 426, 428-430, 440.
- Neutrality, laws of U. S. on, 17-18, 19, 23, 26; of rights and goods, 271, 281, 284-285, 293, 314, 321, 359-360, 421, 439.
- Newspapers in North Carolina, 485, 527 (note).
- Nootka Sound Convention, 298.
- North Carolina, state rights and political parties in (1776-1861), 449-599. See analytical table of contents, 449.
- Nullification in North Carolina, 492-498.
- Nullification in South Carolina, 492, 494-497.
- "Observer" (Fayetteville, N. C.), 592 (note).
- O'Connell, James, quoted, 195-196, 203.
- Officials in American trade unions, 200-204, 206-211, 219-225, 230-233.
- Olney, Richard, 52-53.
- "Organizers" in American trade unions, 200-204.
- Organizing expenses in American trade unions, 199-205, 210.
- Organs, official, of American trade unions, 212-214.
- Ostermann, Count, and U. S., 270-271, 273-274, 276.
- Out-of-work benefit in American trade unions, 183-192.
- Pahlen, Count, Russian minister, 290, 304-305.
- Painters, Amalgamated, 710.
- Painters, Decorators and Paper-hangers of America, Brotherhood of, 149, 153, 162, 177, 193, 240, 244 (and note), 682 (and note), 685-686, 710.
- Paris, Treaty of (1898), 70.
- "Patriot," the (Greensboro, N. C.), 567 (note), 580 (note), 592 (note).
- Pattern Makers' League of North America, 121, 151 (note), 177, 182, 199, 218 (note), 225, 227, 240, 248, 685.
- Peoples' Party, National, 672.
- "Per capita tax" in American trade unions, 109, 117-121, 246-248.

- Phelps, E. J., quoted, 29-30, 49, 54-55, 66-67.
- Phillimore, Sir Robert, quoted, 34-35, 48.
- Piano and Organ Workers' International Union of America, 114, 169 (note), 182, 215.
- Pickering, Timothy, 282.
- Pinkney, Charles, 365, 392.
- Pinkney, William, mission to Russia, 356-366; withdrawn from London, 306; appointed to Russia, 345; in Naples, 345, 350; to St. Petersburg, 355-356; receptions, 359-360; and north-koff's recall, 358; instructions, 359-360; and north-west coast of America, 361-362; on consular immunity, 363; on Spanish-America, 364; withdraws, 365, 366 (note).
- Plasterers' International Association of the United States and Canada, Operative, 686.
- Plumbers, Gas Fitters, Steam Fitters and Steam Fitters' Helpers of the United States and Canada, United Association of Journeymen, 114-115, 123-124, 150, 162, 182, 193, 209, 215, 217 (note), 227, 240, 685-686.
- Poletica, P. de (Russian minister), 365, 372, 375-381, 384-388, 408-411, 419, 428, 431-432.
- Political activities, of American labor federations, 669; of Knights of Labor, 669-672, 674-675; of Am. Federation of Labor, 669-670, 673; of Am. Labor Union, 672-673; of trades councils, 714-715; of industrial unions, 746-748.
- Polo, Señor, 27, 45.
- Pool, John, 555, 556 (note).
- Popular sovereignty in North Carolina, 525-528, 534-536, 540-541, 546-547, 557-558.
- Potters, National Brotherhood of Operative, 119-120, 136, 144.
- President in American trade unions, the, 200, 207-210, 219-220.
- Printing expenses in American trade unions, 211-214.
- Printing Pressmen and Assistants' Union of North America, International, 197, 210, 708 (note).
- Privateering, 455.
- Protection of aliens, in Cuba, 30-31, 37, 57-59, 71-73, 84.
- Protestants in Md. (1639-1642), 776.
- Puryear, R. C., 535 (note).
- Quakers in North Carolina, 400 (and note), 491, 492, 539 (and note), 597.
- Railroad Brakemen, Brotherhood of, 686.
- Railroad Telegraphers, Order of, 245.
- Railroad Trainmen, Brotherhood of, 245, 686.
- Railway Conductors of America, Order of, 136, 209, 213 (and note).
- Railway Conductors, Grand International Brotherhood of, 686.
- Railway Employees' Amalgamated Association of San Francisco, 724.
- Railway Employees, Federation of American, 687.
- Railway Employees of Winnipeg, United Brotherhood of, 724.
- Railway Employees, Supreme Council of the United Orders of, 686.
- Railway Employees, United Brotherhood of, 630; history, 723-725; structure, 726-727; unit of organization, 727; conventions, 727-728; executive board, 728-729, 732; strikes, 731, 739-742; officers, 731-732; functions, 736; trade agreements, 736; political activities, 746.
- Railway Union, American, 724-725.
- Randolph Co. (N. C.), 486

- (note), 490-492, 512, 539, 541, 588 (note), 597.
- Reconcentration, in Cuba, 9-10, 60-66, 71-72, 74, 85, 89; in Philippines, 75.
- Referendum, in American trade union conventions, 216-217; in Am. Labor Union, 642, 644; in Knights of Labor, 642, 644; in Am. Federation of Labor, 642; in Federation of Organized Trades and Labor Unions, 642.
- "Register," the (Raleigh), 485, 509, 522, 534 (note), 538 (note).
- Regulators' War of 1769-71, 457, 505 (note).
- Reid, David S., 528-531, 535, 537, 545, 582-583.
- Religious toleration in Md. (1639-1642), 775-776.
- Representation, in Knights of Labor, 639; in Am. Federation of Labor, 639-641; in Am. Labor Union, 641.
- Republican party in North Carolina, *see* North Carolina.
- Retail Clerks' International Protective Association, 200, 203, 206 (note), 209, 211, 244-245.
- Revenue of American trade unions, 105-140. *See also* Trade unions.
- Rivier, A., quoted, 33-34.
- Rodgers, Sion H., 535 (note).
- Roman Catholics in Md. (1639-1642), 756-759, 763-764, 768-773, 800-808.
- Romanzoff, Count, and U. S., 285-286, 288-289, 294, 298-300, 302-304, 319-330, 333, 406.
- Roofers, Damp and Waterproof Workers, International Brotherhood of Composition, 682 (note).
- Rush, Richard, 361, 371-372, 395.
- Russia, early diplomatic negotiations of the United States with (1776-1824), 257-443; *see* table of contents, 253.
- Russian-American Co., 285-286, 295, 405-407, 436.
- Sakolski, Aaron Morton, "The finances of American trade unions," 105-248.
- Salaries in American trade unions, 205-211.
- Sanguily* case, 58.
- Sanitation in Cuba, 10.
- Sawyer Resolutions and North Carolina, 495 (note).
- Search, right of mutual, 379, 431, 433, 435.
- Secession in North Carolina, 526-527, 564-597.
- Secretary-treasurer in American trade unions, the, 207-210, 221-225, 232-233.
- "Self-ratification," 388.
- Senate Committee on Foreign Relations, Spanish-American War of 1898, 38-40, 46.
- Sheet Metal Workers' International Association, Amalgamated, 210, 248, 681, 682 (note), 686.
- Sheridan, Gen., raid in Virginia compared with Cuban reconcentration, 65-66.
- Sherman, Gen., march to sea compared with Cuban reconcentration, 65-66, 74-75.
- Sherman, John, quoted, 84, 92.
- Shirt, Waist and Laundry Workers' International Union, 139 (and note), 204, 211.
- Short, William, 287-290.
- Sick benefit in American trade unions, 177-183, 191-192.
- "Silver Heels," the, filibuster, 28.
- Slate and Tile Roofers' Union, International, 682 (note).
- Slavery in North Carolina, 463-464, 485-490, 499-503, 506-507, 512, 521, 525-563.
- Slaves, in time of war, 394-402.
- Smith, W. N. H., 552, 561.
- Socialism and labor federations in the United States, 610, 628-629, 673, 747-748.
- Socialist Labor Party and Am. Federation of Labor, 674.
- Sorel, A., quoted, 34.
- Southern Convention and North Carolina, 581-584.
- Southern Rights Associations, 527, 569.

- Southern Rights party in North Carolina, 587 (and note), 589.
- Sovereigns of Industry, 616.
- Spaight, Richard D., 461, 467, 469.
- Spaight, Richard D., Jr., 512.
- Spain, and filibustering, 18, 22-23, 25, 27-31; and Cuban Junta, 23-28; and the *Moine*, 41-47; and American-Cuban trade, 52-54; and Americans in Cuba, 57-59; and Cuban reconcentration, 60-66; inability to subdue revolt in Cuba, 67-68; and Spanish Treaty Claims Commission, 69-82; efforts to avoid war with U. S., 83-95; and Russia, 378, 385-386, 390.
- Spanish-America, Europe and, 364-365, 367-393, 420-422.
- Spanish-American diplomatic relations preceding the War of 1898 (Flack), 9-95.
- Spanish Treaty Claims Commission, 54, 55, 56, 69-82.
- Spencer, Samuel, 465, 467-469.
- Stamp system in American trade unions, 112, 239-240.
- State rights and political parties in North Carolina, 1776-1861 (Wagstaff), 453-599. See analytical table of contents, 449.
- Stationary Engineers, National Association of, 197.
- Stationary Firemen, International Brotherhood of, 651, 720.
- Steam and Hot Water Fitters and Helpers, National Association of, 682 (and note), 701.
- Steam Engineers, International Union of, 119, 197, 204, 213-214, 651, 701, 719.
- Steiner, Bernard C., on "Maryland during English Civil Wars," 750-808.
- Stone Cutters' Association of North America, Journeymen, 106 (note), 144, 149, 172, 195, 210, 216, 220.
- Stores, destruction of, in war, 51.
- Stove Founders' Association, 156.
- Strasser, Adolph, 110, quoted, 154 (and note), 184, 222, 623.
- Strikes in American trade unions, revenue for, 130-140; expenditure in, 141-166; and Knights of Labor, 663-664; and Am. Federation of Labor, 664-665, 668-669; and Am. Labor Union, 667; and industrial unions, 730-731, 739-744; and trades councils, 744. See also Sympathetic strikes.
- Strikes, sympathetic, 610; and Knights of Labor, 664; and Am. Federation of Labor, 665; and trades councils, 707-713; and Western Federation of Miners, 722-723; definition of, 743. See also Strikes.
- Structural Building Trades' Alliance, 651 (note); history, 679, 685-686; structure, 688, 691 (note), 693-696; functions, 697-715; jurisdictional disputes, 698-702; sympathetic strike in, 711-712; and legislation, 714.
- Suffrage in North Carolina, 520-531, 545.
- Swain, David Lowrie, 499, 510.
- Switchmen's Mutual Aid Association of North America, 686.
- Table Knife Grinders' National Union of the United States, 211.
- Tack Makers' Protective Union of the United States and Canada, 106 (note).
- Tailors' Union of America, Journeymen, 218 (note), 248.
- Tariff bill of 1820 and North Carolina, 488 (and note).
- "Tariff of Abominations" in North Carolina, 492-498.
- Tatischeff (Russian minister), 381-382, 387.
- Taxation of slaves in North Carolina, 554-557.

- Tayac, the, 757-758, 800 (and note).
- Taylor, Hannis, 48, 53, 83.
- Tetuan, Duke of. *See* Gullon, Señor.
- Texas, annexation of, and North Carolina, 514-515, 518.
- Thompson, Jacob, 574 (and note).
- "Three Friends," the, filibuster, 22, 77.
- Tobacco, Cuban crop of (1894-96), 10; Cuban export of, 53, 84; in Maryland (1639-42), 760, 761 (note).
- Tories in North Carolina, 456-458.
- Trade regulations, U. S. and Russia, 281, 295-296, 298, 340, 407-418, 420, 428-436, 438-439.
- Trade Unions, finances of American (Sakolski), 105-248; ordinary revenue, 105-129; early history, 105-109; "per capita tax," 109, 117-121; "nationalization and equalization," 108-116; fixed share of gross receipts, 116-117; wage assessment, 119-121; high dues and large benefits, 121-127; incidental receipts, 127-129; extraordinary revenue, 130-140; for strikes and lock-outs, 130-140; defense fund, 131-137; assessment, 137-138; sympathetic appeal, 138-140; strike expenditure, 141-166; early history, 141-143; relative amounts, 144-151; absolute amounts, 151-159; strike restriction, 160-166; beneficiary expenditure, 167-196; early features, 167-168; death or disability, 168-177, 191, 193, 246-248; sickness, 177-183; out-of-work and travelling loans, 183-191; amounts expended, 191-194; difficulties, 194-196; general expenditure, 197-218; portion of income used, 197-199; organizing, mediation and agitation, 199-205, 210; salaries and expenses of business management, 205-214; salaries, 205-211; travelling expenses, 211; postage and printing expenses, 211-214; convention expenses, 214-218; administration, 219-248; staff, 219-225; accounts, 225-227; safeguarding of funds, 227-236; administration of local unions, 236-245; tax collection, 238-240; bookkeeping and accounting, 241-243; safeguarding of funds, 243-245; tabular appendix, 246-248.
- Trade Unions, British, 105, 108-110.
- Trades and Labor Unions of the Pacific Coast, Representative Assembly of, 680.
- Trades Council, local, 689-692.
- Trades Council, national, 610; history, 679-687; structure, 688-696; representative convention, 692-694; executive board and president, 694-695; finances, 695-696; functions, 697-715; jurisdictional disputes, 697-702; trade agreements, 702-707; eight-hour day, 704; trade label, 704; working card, 704-706; arbitration, 706-707; strikes, 707-713, 744; walking delegate, 709-711; and legislation, 714-715.
- Trades section, 689 (note).
- Travelling loans in American trade unions, 183-184, 189-192.
- Treaty between U. S. and Great Britain, 394; U. S. and Russia, 439.
- Treaty of 1824, 405-440.
- Troppau and Laybach, conference of, 396-397.
- Trustees of funds in American trade unions, 230-231, 243.
- Tryon, Wm., 457-458.
- Turkey, and Russia, 271, 300, 399-400, 402-403; and U. S., 280; coalition of 1798, 279.
- Turner, Nat, and North Carolina, 501-502.
- Tuyll, Baron de, Russian minis-

- ter, 358-359, 364-365, 412, 415, 417, 438.
- Tyler, John, 517-518, 519 (note), 581.
- Typographia, German-American, 114, 145, 172-173, 176-177, 181, 184, 186-189, 192-193, 195, 216.
- Typographical Union of North America, International, 106-107, 115, 117, 131 (and note), 133-134, 138, 141-142, 145, 149 (and note), 153, 161, 164-165, 168, 172, 193, 198, 201, 204, 206-209, 212-213, 216 (and note), 218, 220-221, 225-229, 231 (note), 232, 234, 235 (note), 236 (note), 240, 242 (and note), 244, 248, 614, 617 (note), 618, 623, 669, 704 (note), 708 (note), 717.
- Ukase of 1821, trade, 407-420.
- Unit of organization, in Knights of Labor, 631-632; in Am. Federation of Labor, 632; in Am. Labor Union, 633; in industrial unions, 727.
- United States Bank and North Carolina, 498-499, 517.
- United States, diplomatic relations with Russia (1776-1824), 257-443. *See* table of contents, 253.
- United States, non-recognition of Cuba as belligerent, 10-15; practical recognition as insurgent, 17; and filibustering, 18-23, 27-30; and Cuban Junta, 23-28, 30; alleged rights of intervention in Cuba, 36-41; for destruction of *Maine*, 41-47; for commercial and financial reasons, 49-55; for protection of American life and property in Cuba, 55-59; for sake of humanity, 59-69, 82; for combined reasons, 81; American property in Cuba, 55; maltreatment of Americans in Cuba, 57-58; and reconcentration in Cuba, 60-66, 74; and Spanish Treaty Claims Commission, 69-82; attitude toward Spain's offers of mediation, 83-95; resolutions of Congress authorizing intervention, 94.
- Van Buren, Martin, 503 (and note), 515.
- Vance, Zebulon B., 561, 573 (and note), 575-576, 595.
- Vattel, Emerich de, quoted, 39.
- Vaughan, Robert, 779.
- Verac, Marquis de, 264-265, 267-270.
- Vergennes, Count of, 261, 263, 264 (and note), 266, 277.
- Virginia Resolutions and North Carolina, 481 (and note), 564.
- Visit, right of, *see* Search, right of mutual.
- Wagstaff, Henry M., State rights and political parties in North Carolina, 1776-1861, 449-599.
- Wake Co. (N. C.), 578 (and note), 581.
- Walking delegate in American trade unions, 709-711.
- Walpole, Lord Horatio, 327 (and note), 332.
- War, destruction of stores in, 51; destruction of property in, 55-57, 71-72.
- Warfare, methods of, in Cuba, 9-10, 26, 60.
- Watch Case Engravers' International Association of America, 169 (note).
- Wayne Co. (N. C.), 588.
- Webb, Sidney, quoted, 108.
- Wellington, George, quoted, 67.
- Weyler, Gen., reconcentration orders, 9-10, 60, 65, 74.
- Wheaton, Henry, quoted, 35, 39, 43.
- White, Father Andrew, 756-758, 771-773, 801.
- Williamson, Hugh, 460-461, 464, 473-474, 477-478.
- Wilmington, N. C., 498 (note), 501, 571, 574.
- Wilmot Proviso and North Carolina, 521-524.
- Wilson, G. G., quoted, 16.
- Window Glass Blowers' Association, 107 (note).

- Wise, Henry A., 537, 549.
Wood, Jas. P., 78.
Woodford, Stewart L., 44, 51,
83-95.
Wood Workers' International
Union of America, Amalga-
mated, 699-701.
Woolsey, Theodore, quoted, 35,
49, 83.
- Working card, in Knights of
Labor and Am. Federation
of Labor, 655-656; in trades
councils, 704-706.
Workingmen's Association of
North Carolina, 553-557.
Woronzow, Count, Russian am-
bassador to England, 279-283.

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